CLERK'S COPY.

VOLUME 1
TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 673

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 6, 1946
CERTIORARI GRANTED DECEMBER 16, 1946

In the

United States Circuit Court of Appeals

For the Seventh Circuit

No. 8779

GREYVAN LINES, INC.,

Plaintiff-Appellee,

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,

Defendant-Appellant.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

D.J.-1402 The Gunthorp-Warren Printing Co., Chicago—2-13-46—40

INDEX.

Placita	1
Complaint—No. 43-C-10, filed Jan 6, 1943	2
Request for Summons	6
Exhibit A—Notice of disallowance of Claim	6
Exhibit B—Notice of disallowance of Claim	7
Summons—No. 43-C-10, filed Feb. 3, 1943	8
Answer—No. 43-C-10, filed Mar. 12, 1943	11
Complaint—No. 43-C-276	13
Request for Summons	16
Exhibit A—Notice of disallowance of Claim	16
Exhibit B—Notice of disallowance of Claim	17
Summons—No. 43-C-276, filed Mar. 19, 1943	18
Answer—No. 43-C-276, filed May 14, 1943	20
Order re Briefs, etc., No. 43-C-10, Entered June 7, 1943	21
Stipulation of Facts, filed Feb. 1, 1944	22
Exhibit A—Excise Tax Return for year 1937	28
Exhibit B—Excise Tax Return for year 1938	31
Exhibit C—Excise Tax Return for year 1939	34
Exhibit D—Excise Tax Return for year 1940	37
Exhibit F—Statement to Correct Information	43
Exhibit G—Statement to Correct Information	45
Exhibit H—Supplemental Return	63
Exhibit I—Supplemental Return	89

TRANSCRIPT OF TESTIMONY.

Witnesses for Plaintiff.

Testimony of:
Bossert, George E. 96
Foote, Dan 179
Parsley, Max R. 120
Prante, Arthur F. 144
Schertzberg, Allen F. 160
Shearer, Walter W. 130

Witnesses for Defendant.

Testimony of:
Garrison, Joe 180
Sahlgaard, Aage 192
Colloquy 198
Memorandum, filed July 27, 1944 207
Observations of Defendant re proposed Findings of Fact, etc., filed Sept. 9, 1944 208
Answer of Plaintiff to Observations, etc., filed Sept. 26, 1944 211
Findings of Fact, etc., filed Oct. 12, 1944 219
Conclusions of Law 227
Judgment, entered Oct. 13, 1944 228
Amended Judgment Order, entered Nov. 9, 1944 229
Notice of Appeal, filed Jan. 8, 1945 231
Statement of Points 232
Stipulation re Exhibits 238
Order re Exhibits 239
Docket Entries 239
Designation of Record 250
Clerk's Certificate 251
Stipulation re Printing Record 252

Proceedings in U. S. C. C. A., Seventh Circuit 253
Caption 253
Opinion, Sparks, J 253
Judgment 259
Clerk's certificate [omitted in printing] 259
Order extending time within which to file petition for certiorari 259
Order allowing certiorari 260

1 Pleas had at a regular term of the District Court of the United States for the Eastern Division of the Northern District of Illinois begun and held in the United States Court Rooms in the City of Chicago in the Division and District aforesaid on the first Monday of October (it being the second day thereof) in the year of our Lord One Thousand Nine Hundred and Forty-Four and of the Independence of the United States of America the 169th year.

Present:

Hon. John P. Barnes, District Judge.
Hon. Philip L. Sullivan, District Judge.
Hon. Michael L. Igoe, District Judge.
Hon. William J. Campbell, District Judge.
Hon. Walter J. La Buy, District Judge.
Hon. Elwyn R. Shaw, District Judge.
Hon. William H. Holly, District Judge.
Roy H. Johnson, Clerk.
William H. McConnell, Marshal.

Friday, October 13, 1944.

Court met pursuant to adjournment.

Present: Honorable William J. Campbell, Trial Judge.

2 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois

Eastern Division.

Greyvan Lines, Inc., 1338 S. Michigan Boulevard, Chicago, Illinois,
Plaintiff,

vs.

Carter H. Harrison, individually and as Collector of Internal Revenue,
Defendant.

No. 43 C 10.

Be It Remembered, that the above-entitled action was commenced by the filing of the following Complaint, in the above-entitled cause, in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 6th day of January, 1943.

3 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10)

COMPLAINT.

(1) Plaintiff, Greyvan Lines, Inc., is a corporation organized and existing under the laws of the State of Indiana, and has its office and principal place of business at 1338 S. Michigan Avenue, Chicago, Illinois.

(2) Defendant, Carter H. Harrison, is, and was at all times mentioned herein, the duly appointed, qualified and acting Collector of Internal Revenue for the United States Government, First District of Illinois, stationed at Chicago, Illinois.

(3) This action arises under the act of Congress known as the Social Security Act, passed August 14, 1935, Title VIII, § 801 et seq. and under subchapter (a) of chapter 9 of the Internal Revenue Code (Federal Insurance Con-

tributions Act) § 1400 et seq. (U.S.C.) as amended by the Social Security Act Amendments of 1939.

(4) Plaintiff says that it is an "employer" within the meaning of said acts of Congress above referred to, and that for the years 1937, 1938, 1939, 1940, 1941 and the 1st quarter of 1942, it duly returned under the provisions of said act to the respective authorities entitled to receive the same, full and correct reports of the amount of wages paid to its employees.

(5) Plaintiff says that it collected from its em-
4 ployees the excise tax provided by §§ 801 and 1400 of the Social Security Act and Federal Insurance Contributions Act respectively and paid the same to defendant, Collector of Internal Revenue, together with the assessed full and correct amount of excise tax chargeable against it as employer.

(6) Plaintiff further says that notwithstanding the filing of returns and the payment of the excise taxes levied and assessed in full and correct amount as aforesaid, the defendant as Collector of Internal Revenue, acting under authority of § 3612 (U.S.C.) Internal Revenue Code of 1939 illegally and without basis either in law or in fact, amended said plaintiff's returns and assessed the employer with additional tax for each of the periods hereinafter set forth:

(7) The said defendant determined that the plaintiff had paid additional taxable wages and that there were due from the plaintiff additional taxes under §§ 801 and 1400 of the Social Security Act and Federal Insurance Contributions Acts respectively for the periods and in the amounts as follows:

Period	Tax	Interest and Penalty
1937 (Nov. & Dec. Only)	$ 381.48	$105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter only)	882.74	16.29

(8) Notice was given the plaintiff of the assessments and of the amounts of taxes and interest stated above and demand was made for the immediate payment thereof.

On the 12th day of August, 1942, after claim for abatement had been disallowed, the plaintiff paid the amount of the tax, interest and penalty for the year 1938, totalling $2,713.32. On the 25th day of September, 1942, within ten days of the receipt of notice and demand for the immediate payment thereof, the plaintiff paid to the defendant as Collector of Internal Revenue the amount of tax and interest above set forth for November and December 1937 and the period from January 1, 1939 to March 31, 1942, and an additional amount of interest of $56.11 making a total payment of $11,278.77. Those payments were made to avoid further penalties and interest because the plaintiff taxpayer had no available remedy except to pay the taxes and sue to recover back.

(9) Plaintiff further says that it prepared and filed with the Collector of Internal Revenue claims for refund for taxes illegally collected (Form 843 Treasury Department, Internal Revenue service) for the period from November 1, 1937 to March 31, 1942 as follows:

Date Filed	Amount of Refund Claimed	Period Covered
Aug. 26, 1942	$2,713.32	1-1-38 to 12-31-38
Oct. 2, 1942	11,278.77	11-1-37 to 12-31-37 and 1-1-39 to 3-31-42
	$13,992.09	

being the full amounts of the illegal taxes as above set forth, which said claims for refund set forth full statements of the reasons for which refund should have been allowed.

(10) Plaintiff says that under date of October 12, 1942 it was notified by registered mail of the disallowance of the aforesaid claim for refund in the amount of $2,713.32 filed on August 26, 1942, copy of which notice of disallowance is attached hereto and marked Exhibit A; under date of November 6, 1942, the plaintiff was notified by registered mail of disallowance of the above claim in the amount of $11,278.77 filed under date of October 2, 1942, copy of which notice of disallowance is attached hereto and marked Exhibit B.

(11) Plaintiff further says that all of the taxes

paid by it as set forth in this complaint and for the recovery of which it filed claims for refund, were assessed against the plaintiff as an alleged employer, and said assessments were fully paid with its own funds. No portion of the tax was withheld from the payments to its independent contractors, whom defendant erroneously contends were employees of the plaintiff, nor was any portion of the taxes so wrongfully assessed against the plaintiff, collected from them.

(12) The defendant, Carter H. Harrison, as Collector of Internal Revenue, amended the tax returns of the plaintiff for the period from November 1, 1937 to March 31, 1942, and assessed and collected taxes in the amounts stated above upon the unwarranted assumption that the plaintiff taxpayer was an employer under contract for hire, of certain owners of motor carrier equipment, whereas, in truth and in fact, the relationship of employer and employee with such owners did not exist; such owners were not employed by the taxpayer under contract of hire; the taxpayer paid to said owners no taxable wages during the period covered by the amended return; the calculations of said defendant were, and are, erroneous and the defendant, in the assessment of said taxes acted without, and contrary to, evidence of the true facts, and assumed to use an arbitrary rate (the amount being unknown to plaintiff) as the basis for the calculation of the alleged wages, whereas in truth and in fact, no contract of employment at any wage existed.

(13) Wherefore, the plaintiff prays judgment against the said Carter H. Harrison, individually and as Collector of Internal Revenue, for the sum of $13,992.09 with interest from the dates of payment of the respective amounts as herein set forth, being excise taxes erroneously and illegally exacted from the plaintiff.

Greyvan Lines, Inc.,
By Wilbur E. Benoy Sgd
2910 A.I.U. Building,
Columbus, Ohio,

George T. Christie Sgd
Chicago, Illinois,
Room 2737 Board of Trade Building,
Attorneys for Plaintiff.

8 PRAECIPE.

To the Clerk:

Issue summons to the Marshal on the foregoing entitled action; endorse "Action for recovery of taxes illegally collected—amount claimed $13,992.09 with interest, as stated in the Complaint", returnable according to law. Make service in accordance with the rules of procedure, Rule #IV, Section (D) (4) and (5) as follows:

By delivering a copy of the summons and of the complaint to the United States Attorney for the Northern District of Illinois, Eastern Division, or to an Assistant United States District Attorney; and also by sending a copy of the summons and of the complaint, by registered mail, to the Attorney General of the United States at Washington, D. C.

Serve Carter H. Harrison, individually and as Collector of Internal Revenue, by delivering a copy of the summons and of the complaint to him.

Wilbur E. Benoy. /Sgd/
Attorney for Plaintiff.

9 EXHIBIT A.

Treasury Department
Washington

October 12, 1942

A&C:A:AA 5-MT
CI-440895

Greyvan Lines, Inc.
1338 South Michigan Avenue
Chicago, Illinois

Sirs:

Reference is made to your claim on Form 843 for refund of $2,713.32, representing taxes and interest under Title VIII of the Social Security Act for the taxable periods from January 1, 1938 through December 31, 1938.

The basis of the claim is that taxes and interest were erroneously paid with respect to remuneration of certain contract carriers and helpers who are not employees of the corporation.

In a letter addressed to you under date of May 13, 1942, this office held that truck owners and the helpers engaged by them in rendering services for the corporation are employees thereof for Federal employment tax purposes. In view of such ruling, the taxes and interest involved in your claim were not erroneously or illegally collected. Your claim is hereby disallowed.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3773(a)(2) of the Internal Revenue Code.

Respectfully,

Guy T. Helvering,
Commissioner.

By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

10 EXHIBIT B.

Treasury Department

Washington

Nov. 6, 1942

Refer to:
A&C:A:AA:5-MT
CI-442624

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois.

Sirs:

Reference is made to your claim on Form 843 for refund of $11,278.77, representing taxes and interest under Title VIII of the Social Security Act and the Federal Insurance Contributions Act for the months of November and December, 1937, and the taxable periods from January 1, 1939 through March 31, 1942.

The basis of the claim is that taxes and interest were erroneously paid with respect to the remuneration of certain contract carriers and helpers who are not employees of the corporation.

In a letter addressed to you under date of May 13, 1942, this office held that truck owners and the helpers engaged by them in rendering services for the corporation are em-

ployees thereof for Federal employment tax purposes. In view of such ruling, the taxes and interest involved in your claim were not erroneously or illegally collected. Your claim is hereby disallowed.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3772 (a) (2) of the Internal Revenue Code.

Respectfully,

Guy T. Helvering,
Commissioner.

By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

11 And afterwards on, to wit, the 3rd day of February, 1943 there was filed in the Clerk's office of said Court a certain Summons, with Marshal's Return Endorsed Thereon, In Civil Action No. 43 C 10 in words and figures following, to wit:

12 DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10)

SUMMONS.

To the above named Defendant:

You are hereby summoned and required to serve upon George T. Christie plaintiff's attorney, whose address Room 2737, Board of Trade Bldg., Chicago, Illinois an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Roy H. Johnson,
Clerk of Court.

(Seal)

By Ann G. Joyce,
Deputy Clerk.

Date: January 6, 1943.

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

13 MARSHAL'S RETURN.

Served this writ, together with copy of complaint, on the United States of America, by and through J. Albert Woll, US Attorney for the Northern District of Illinois at Chicago, by leaving copies thereof for him at room 450, US Courthouse, Chicago, his usual place of business, with Gordon S. Morgan, Chief Clerk, an agent authorized to accept service for him, at the same time informing him of contents thereof, this 11th day of January, A. D., 1943.

Served this writ, together with copy of complaint, on the Attorney General for the United States of America by mailing copies thereof to him in Washington, D. C., by registered mail (Register No. 867484), this 11th day of January, A. D., 1943.

Served this writ, together with copy of complaint, on the Commissioner of Internal Revenue for the United States of America, by mailing copies thereof to him in Washington, D. C., by registered mail (Register No. 867483), this 11th day of January, A. D. 1943.

Served this writ, together with copy of complaint, on the within named Carter H. Harrison, Individually and as Collector of Internal Revenue, by leaving copies thereof for him at Room 528, U. S. Courthouse, Chicago, his usual place of business, with Lois Vethe, deputy clerk, an agent authorized to accept service for him, at the same time informing her of contents thereof, this 11th day of January, A. D., 1943.

William H. McDonnell,
United States Marshal,
By David Lewis,
Deputy.

1 Sr. 2.00

Form 3806 (Rev. Jan. 21, 1935)

Receipt for Registered Article No. 867483
Registered at the Post Office indicated in the Postmark
Fee paid 10 cents Class postage
Declared value Off Surcharge paid, $
Return Receipt fee G Spl. Del'y fee
Delivery restricted to addressee; in person , or order Fee paid
Accepting employee will place his initials in space indicating restricted delivery.
Postmaster, per (illegible)

(Postmark of) Chicago, Ill. (Old P.O. Annex) Jan. 11 1943 Registered (Mailing Office)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding $5 up to $1 for indemnity not exceeding $1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to $1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

Form 3806 (Rev. Jan. 21, 1935)

Receipt for Registered Article No. 867484
Registered at the Post Office indicated in the Postmark
Fee paid 10 cents Class postage
Declared value Off Surcharge paid, $
Return Receipt fee G Spl. Del'y fee
Delivery restricted to addressee; in person , or order Fee paid
Accepting employee will place his initials in space indicating restricted delivery.
Postmaster, per (illegible)

(Postmark of) Chicago, Ill. (Old P.O. Annex) Jan. 11 1943 Registered (Mailing Office)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding $5 up to $1 for indemnity not exceeding $1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to $1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

Endorsed: District Court of the United States * * (Caption—43-C-10) * * Summons in Civil Action. Returnable not later than 60 days after service. Filed Feb. 3, 1943. Roy H. Johnson, Clerk. George T. Christie, Attorney for Plaintiff. Lewis 1-7-43.

14 And afterwards on, to wit, the 12th day of March, 1943 came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Answer, In Civil Action No. 43 C 10 in words and figures following, to wit:

15 In the District Court of the United States.

* * (Caption—43-C-10) * *

ANSWER.

Comes now Carter H. Harrison, Individually and as Collector of Internal Revenue, defendant in the above-entitled case, and for an answer to plaintiff's complaint herein admits, denies and alleges as follows:

1. The allegations in paragraph 1 are admitted.
2. The allegations in paragraph 2 are admitted.
3. The allegations in paragraph 3 are admitted.
4. Answering paragraph 4 defendant admits that plaintiff is an employer as alleged. Defendant denies the other allegations in paragraph 4.
5. The allegations in paragraph 5 are denied.
6. The allegations in paragraph 6 are denied.
7. The allegations in paragraph 7 are admitted.

8. Answering paragraph 8 defendant admits the
16 allegations contained in said paragraph except that defendant alleges that the total amount of taxes paid by plaintiff was $11,222.66, instead of $11,278.77, as alleged.

9. Answering paragraph 9 defendant admits that plaintiff filed documents purporting to be claims for refund. Defendant denies that any taxes were illegally collected from the plaintiff. Defendant alleges that the amounts collected from plaintiff aggregate $11,222.66, instead of $11,278.77, as set out in plaintiff's claim for refund filed October 2, 1942. Defendant denies that said taxes were illegal, and further denies that the claims for refund set forth fully statements of the reasons for which the refunds should be allowed.

10. The allegations in paragraph 10 are admitted.

11. Answering paragraph 11 defendant admits that the taxes paid by the plaintiff were assessed against plaintiff as an alleged employer, and further admits that said taxes were paid by plaintiff with its own funds. Defendant further admits that no part of the taxes have been collected from plaintiff's alleged employees. Defendant denies all the other allegations contained in paragraph 11.

12. The allegations in paragraph 12 are denied.

13. Answering paragraph 13 defendant denies that plaintiff is entitled to judgment against the defendant for $13,992.09, or any other amount or that said sum represents excise taxes erroneously or illegally exacted from the plaintiff.

Wherefore, defendant having fully answered plaintiff's complaint prays that plaintiff's complaint be dis-
17 missed and that defendant recover its costs and disbursements laid out and expended and for all just and proper relief.

J. Albert Woll,
United States Attorney.

(Affidavit of Service Attached But Not Copied):

18 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43-C-276)

Be It Remembered, that the above-entitled action was commenced by the filing of the following Complaint, in the above-entitled cause, in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 17th day of March, 1943.

19 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43-C-276)

COMPLAINT.

(1) Plaintiff, Greyvan Lines, Inc., is a corporation organized and existing under the laws of the State of Indiana, and has its office and principal place of business at 1338 S. Michigan Avenue, Chicago, Illinois.

(2) Defendant, Carter H. Harrison, is and was at all times mentioned herein, the duly appointed, qualified and acting Collector of Internal Revenue for the United States Government, First District of Illinois, stationed at Chicago, Illinois.

(3) This action arises under the Acts of Congress known as the Social Security Act, passed August 14, 1935, Title IX, § 901 et seq., and United States Code, Title 26, Chapter 9, sub-chapter (c) of the Internal Revenue Code, (Federal Unemployment Tax Act), § 1600 et seq. as amended by the Social Security Act amendments of 1939 (United States Code, Title 42, Chapter 7, sub-chapter IX, § 1101 et seq.)

(4) Plaintiff says that it is an "employer" within the meaning of said Acts of Congress above referred to, and that for the years 1937, 1938, 1939, 1940 and 1941, it duly returned under the provisions of said Acts to the respective authorities entitled to receive the same, full and
20 correct reports of the amounts of wages paid to its employees.

(5) Plaintiff says it so filed returns and paid to the defendant, as said Collector of Internal Revenue, the full and correct amount of excise tax chargeable against it as an employer, as provided in said Acts.

(6) Plaintiff further says that notwithstanding the filing of returns and the payment of the excise taxes levied and assessed in full and correct amount, the defendant as Collector of Internal Revenue, acting under authority of the Internal Revenue Code of 1939, (Title 26, § 3612, United States Code), illegally and without basis either in law or in fact, amended said plaintiff's returns and assessed the plaintiff with additional taxes for each of the periods hereinafter set forth.

(7) The said defendant determined that the plaintiff had paid additional taxable wages, and that there were due from the plaintiff additional taxes under said Acts respectively for the periods and in the amounts as follows:

Period	Taxes	Interest and Penalty
1937	$2864.44	$808.64
1938	3358.57	746.61
1939	3918.31	635.94
1940	4432.47	453.44
1941	929.97	85.71

(8) Notice was given the plaintiff of the assessments and of the amounts of taxes, penalties and interest levied as stated above, and demand was made for the immediate payment thereof. On the 30th day of October, 1942, within ten days of the receipt of notice and demand for immediate payment thereof, the plaintiff paid the amount of the tax, interest and penalty assessed for the years 1937, 1938, 1939, 1940 and 1941, totalling $18,234.10. Said payments were made to avoid the assessment of further penalties and interest and because the plaintiff had no available
21 remedy except to pay the taxes and sue to recover back.

(9) Plaintiff further says that it prepared and filed with the Collector of Internal Revenue claims for refund for taxes illegally collected on Form 843, Treasury Department, Internal Revenue Service, being the form provided for that use for the period from January 1, 1937 to December 31, 1941, as follows:

Date Filed	Amount of Refund Claimed	Period Covered
Nov. 20, 1942	$ 1,015.68	11-1-41 to 12-31-41
Jan. 5, 1943	17,218.42	1-1-37 to 12-31-40

being the full amounts of the illegal taxes assessed and collected, as above set forth, which said claims for refund set forth full statements of the reasons for which refund should have been allowed.

(10) Plaintiff says that under date of January 2, 1943, it was notified by registered mail of the disallowance of the aforesaid claim for refund so filed in the amount of $1,015.68, copy of which notice of disallowance is attached hereto and marked Exhibit A. Under date of February 19, 1943, the plaintiff was notified by registered mail of disallowance of the above claim so filed in the amount of $17,218.42, copy of which notice of disallowance is attached hereto and marked Exhibit B.

(11) The defendant, Carter H. Harrison, as Collector of Internal Revenue, amended the tax returns of the plaintiff for the period from January 1, 1937 to December 31, 1941, and assessed and collected taxes, penalties and interest in the amounts stated above upon the unwarranted assumption that the plaintiff was an employer under contract of hire of certain owners of motor carrier equipment, whereas, in truth and in fact, the relationship of employer and employee with such owners did not exist; such owners were not employed by the plaintiff under contract of hire; the plaintiff paid to said owners no taxable wages during the period covered by the amended return; the calculations of said defendant were, and are, erroneous and the defendant, in the assessment of said taxes acted without, and contrary to, evidence of the true facts, and assumed to use an arbitrary rate (the amount being unknown to plaintiff) as the basis for the calculation of the alleged wages, whereas in truth and in fact, no contract of employment at any wage existed.

(12) Wherefore, the plaintiff prays judgment against the said Carter H. Harrison, individually and as Collector of Internal Revenue, for excise taxes erroneously and illegally exacted from the plaintiff in the sum of $18,234.10 with interest at 6% from October 30, 1942, and for its costs herein expended.

Greyvan Lines, Inc.
By Wilbur E. Benoy /Sgd/
2910 A. I. U. Bldg.,
Columbus, Ohio
George T. Christie /Sgd/
2737 Board of Trade Bldg.,
Attorneys for Plaintiff.

Precipe.

To the Clerk:

Issue summons to the Marshal on the foregoing entitled action; endorse "Action for recovery of taxes illegally collected amount claimed $18,234.10 with interest, as stated in the Complaint", returnable according to law. Make service in accordance with the rules of procedure, Rule #IV, Section (D) (4) and (5) as follows:

23 By delivering a copy of the summons and of the complaint to the United States Attorney for the Northern District of Illinois, Eastern Division, or to an Assistant United States District Attorney; and also by sending a copy of the summons and of the Complaint by registered mail, to the Attorney General of the United States at Washington, D. C.

Serve Carter H. Harrison, individually and as Collector of Internal Revenue, by delivering a copy of the summons and of the Complaint to him.

Wilbur E. Benoy /Sgd/
George T. Christie
Attorneys for Plaintiff.

24 EXHIBIT A.

January 2, 1943.

A&G:A:AA:3-CO
C1-760720

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois

Sirs:

Reference is made to your claim for refund of $1,015.68, representing an alleged overpayment of excise tax, interest and penalty for the calendar year 1941 imposed under the Federal Unemployment Tax Act. The basis of the claim is that certain truck owner-operators performing services for your corporation are not your employees.

It has been held by the Bureau that the truck owner-operators in question and their assistants who rendered services for your corporation were your employees for employment tax purposes. Inasmuch as no additional infor-

mation has been furnished which would warrant a reversal of the office ruling referred to above, your claim for refund is disallowed.

This notice of disallowance is sent to you by registered mail in accordance with the provisions of Section 3772(A)(2) of the Internal Revenue Code.

Respectfully,
Guy T. Helvering,
Commissioner.
By (signed) Geo. J. Schoeneman,
Deputy Commissioner.

25 Treasury Department
Washington

February 19, 1943.

A&C:A:AA:3-CO
C1-762544, et al.

Greyvan Lines, Inc.,
1338 South Michigan Avenue,
Chicago, Illinois.

Sirs:

Reference is made to your claims for refund of tax and interest paid under Title IX of the Social Security Act and the Federal Unemployment Tax Act, filed as follows:

Claim Number	Year	Amount Claimed
762544	1937	$3,673.08
762545	1938	4,105.18
762546	1939	4,554.25
762547	1940	4,885.91

The basis of the claims is that certain truck owner-operators performing services for your corporation were not your employees.

It has been held by the Bureau that the truck owner-operators in question and their assistants who rendered services for your corporation were your employees for employment tax purposes. Inasmuch as no additional information has been furnished which would warrant a reversal

of the office ruling referred to above, your claims for refund are disallowed.

This notice of disallowance is sent to you by registered mail, in accordance with the provisions of Section 3772 (a) (2) of the Internal Revenue Code.

Respectfully,
Guy T. Helvering,
Commissioner.
By (signed) Victor H. Self,
Acting Deputy Commissioner.

26 And afterwards on, to wit, the 19th day of March, 1943, there was filed in the Clerk's office of said Court a certain Summons, With Marshal's Return Endorsed Thereon, in Civil Action No. 43 C 276, in words and figures following, to wit:

27 DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-276)

SUMMONS.

To the above named Defendant:

You are hereby summoned and required to serve upon George T. Christie, plaintiff's attorney, whose address is 2737 Board of Trade Bldg., Chicago, Illinois an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Roy H. Johnson,
Clerk of Court.
(Seal)
By Ann G. Joyce,
Deputy Clerk.

Date: March 17, 1943.

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Marshal's Return

1 Ser $2.00

Served this writ, together with copy of Complaint, on the within named Carter H. Harrison, individually and as Collector of Internal Revenue, by leaving copies thereof for him at Room 528, US Courthouse, Chicago, his usual place of business, with Hope Hamilton, Deputy Collector, an agent authorized to accept service for him, at the same time informing her of contents thereof, this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on J. Albert Woll, US Attorney for the Northern District of Illinois, by leaving copies thereof for him at Room 450, US Courthouse, Chicago, his usual place of business, with Gordon S. Morgan, Chief Clerk, an agent authorized to accept service for him, at the same time informing him of contents thereof, this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on The Attorney General for the United States of America by mailing copies thereof to him in Washington, D. C. by registered mail (Register No. 893446) this 18th day of March, A. D., 1943.

Served this writ, together with copy of Complaint, on The Commissioner of Internal Revenue for the United States of America by mailing copies thereof to him in Washington, D. C. by registered mail (Register No. 893445), this 18th day of March, A. D., 1943.

William H. McDonnell,
United States Marshal.
By David Lewis,
Deputy.

Endorsed: District Court of the United States. (Caption—43-C-276). Summons in Civil Action. Returnable not later than 60 days after service. George T. Christie, Attorney for Plaintiff. Filed Mar. 19, 1943, Roy H. Johnson, Clerk.

And afterwards on, to wit, the 14th day of May, 1943, came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Answer, In Civil Action No. 43 C 276, in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-276)

ANSWER.

Comes now the defendant, Carter H. Harrison, individually and as Collector of Internal Revenue, by his attorney, J. Albert Woll, United States Attorney for the Northern District of Illinois, Eastern Division, and for an answer to plaintiff's complaint herein, admits, denies and alleges as follows:

1. The allegations of paragraph 1 are admitted.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.
4. Answering paragraph 4 defendant admits plaintiff is and was an employer as alleged. The remaining allegations in paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The allegations of paragraph 7 are admitted.
8. The allegations of paragraph 8 are admitted.
9. Answering paragraph 9 defendant admits that plaintiff prepared and filed claims for refund on Form 843 covering the periods and amounts alleged. The remaining allegations in paragraph 9 are denied.
10. The allegations of paragraph 10 are admitted.
11. The allegations of paragraph 11 are denied.
12. Defendant denies plaintiff is entitled to recover any sums whatever from the defendant herein.

Wherefore, defendant having fully answered plaintiff's complaint prays that said complaint be dismissed and that defendant have judgment for its costs and all just and proper relief.

J. Albert Woll,
United States Attorney.

32 State of Illinois } ss.
County of Cook }

Terence Giblin, being first duly sworn on oath deposes and says that he is employed as Clerk in the office of the United States Attorney for the Northern District of Illinois; that on the 14th day of May, A. D. 1943, he placed a copy of the foregoing Answer in a Government franked envelope addressed to the following:

George T. Christie, Esquire
2737 Board of Trade Building
Chicago, Illinois

and that he placed said envelope, so addressed and containing said copy of the foregoing Answer, in the mail chute located in the United States Court House, Chicago, Illinois, on said date.

Terence Giblin.

Subscribed and sworn to before me this 14th day of May, A. D. 1943.

Anna L. Minahan,
(Seal) *Notary Public.*

33 And afterwards, to wit, on the 7th day of June, 1943, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

34 In the District Court of the United States.

* * (Caption—43C10) * *

Monday June 7, A. D. 1943.

Present: Honorable William J. Campbell, District Judge.

This cause having come on for pre-trial conference and pre-trial conference having now been held and the issues of this case having been discussed together with the issues in Case No. 43C276

Plaintiff agrees to arrange for the Government to inter-

view necessary number of owner-driver associates of plaintiff company and the parties hereto are directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in the contemplated stipulation.

Further, plaintiff is directed to file its brief and arguments in support of its position within fifteen (15) days from the date of filing of agreed stipulation of facts and the defendant is directed to file his brief and arguments in reply thereto within thirty (30) days thereafter and plaintiff is directed to file reply thereto within ten (10) days thereafter.

Whereupon this cause will be taken by the Court for disposition without further argument.

And afterwards on, to wit, the 1st day of February, 1944 came the Parties by their attorneys and filed in the Clerk's office of said Court their certain Stipulation in words and figures following, to wit:

35 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption 43-C-10—43-C-276)

STIPULATION.

It is hereby stipulated and agreed by and between the parties in the above entitled proceeding by their respective attorneys that the following facts shall be taken as true, each, however, reserving the right to introduce other and further evidence not inconsistent with the facts herein stipulated and reserving the right to object to the consideration of such stipulated facts on the grounds of immateriality, irrelevancy and incompetency:

1. Carter H. Harrison, hereinafter referred to as the "Collector", at the time stated in the complaints, was the duly appointed, qualified, and acting Collector of Internal Revenue for the First District of Illinois. Said Collector in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on

him thereunder, executed amended tax returns for the plaintiff under the Federal Unemployment Tax Act (formerly Title IX of the Social Security Act) for the
36 years 1937, 1938, 1939, 1940 and 1941. Thereafter the Commissioner of Internal Revenue, in October of 1942, assessed the plaintiff with additional tax, interest and penalty in the amounts as set forth in paragraph 7 of the complaint in case numbered 43 C 276, viz:

Period	Taxes	Interest & Penalty
1937	$2864.44	$808.64
1938	3358.57	746.61
1939	3918.31	635.94
1940	4432.47	453.44
1941	929.97	85.71
	$15503.76	$2730.34

Total additional tax, interest and penalty assessed and paid under the Federal Unemployment Tax Act being in the sum of $18,234.10.

2. Said Collector determined that the plaintiff had paid, during the years aforesaid, in addition to the amounts reported in the company's returns previously made by it, total taxable wages in additional amounts set forth in the aggregate on said supplemental returns and upon which it was claimed plaintiff owed the additional taxes, interest and penalty set forth in paragraph 1 hereof.

Copies of the supplemental returns upon which the assessment of the Federal Unemployment Tax for the years aforesaid were made are attached hereto, marked Exhibits A, B, C, D and E, and made a part hereof.

3. Said Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended tax returns for the plaintiff under the Federal Insurance Contributions Act (formerly Title VIII of the Social Security Act) covering the months of November and December 1937 and the years 1938, 1939, 1940 and 1941, and the months of
37 January, February and March of 1942. Thereafter the Commissioner of Internal Revenue, in August of 1942, assessed the plaintiff with additional tax, interest and

penalty as set forth in paragraph 7 of the complaint filed in case numbered 43 C 10, to wit:

Period	Tax	Interest & Penalty
1937 (Nov. & Dec. only)	$381.48	$105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter)	882.74	16.29
Total	$12357.82	1578.16
Additional interest		56.11
		$1634.27

Total additional tax, interest and penalty assessed and paid under the Federal Insurance Contributions Act being in the sum of $13,992.09.

4. Said Collector determined that the plaintiff had paid, during the periods aforesaid, in addition to the amounts reported in the company's returns previously made by it, total taxable wages as set forth on said supplemental returns and upon which it was claimed plaintiff owed the additional taxes, interest and penalty, set forth in paragraph 3 hereof.

The supplemental returns for November and December, 1937, as prepared by the Collector, are set forth on two separate sheets, a photostat copy of each of said sheets is hereto attached and the whole marked Exhibit F, and made a part hereof.

The supplemental returns as prepared by the said
38 Collector for the year 1941, are set forth in 12 separate sheets. A photostatic copy of each of said 12 sheets is hereto attached and the whole marked Exhibit H, and made a part hereof.

The supplemental returns, as prepared by the said Collector, for the quarter ending March 31, 1942, are set forth on two separate sheets. A photostatic copy of each of said two sheets is hereto attached and the whole marked Exhibit I, and made a part hereof.

5. While Exhibits F, G, H and I were prepared with respect to additional contributions claimed to be due under the Federal Insurance Contributions Act (formerly

Title VIII, Social Security Act), they were adopted and used by the Collector as a part of the returns upon which the amounts were assessed, during the aforesaid periods, under the Federal Unemployment Tax Act (Title IX of the Social Security Act).

6. Scheduled on Exhibits F, G, H and I are certain truckmen who owned and operated two trucks. The assessments with respect to such truckmen are indicated by doubling the amount of the assessment. For example, see W. Lange, Exhibit H, page 1. The truckmen so operating two trucks were Don Foote, Wm. H. Lange, J. M. Lichtenberg, H. Morgan, Glenn Suess and H. C. Stevens. In such cases the claimed wages, as computed by the Collector for both trucks, are listed in Exhibits F, G, H and I opposite their respective names, subject, however, to a limitation of $3000 per annum in the assessments made under the Federal Contributions Act.

7. The figures in Exhibits F, G, H and I, following the words "unknown Helpers" and "Dummy" (See sheet 26 of Exhibit G) represents amounts found by the Collector to be wages paid by the truckmen or their drivers to such helpers.

8. In the amended returns executed for the plaintiff by the Collector for Federal Unemployment taxes and Federal Insurance Contributions taxes, the following method was used by the Collector in computing the wages:

(a) As to the truckmen, the union wage scale payable by plaintiff to its employees engaged in driving equipment owned by the company itself to December 31, 1941, was $36.00 per week of 48 hours each. He assumed that the equipment would be laid up for repairs and vacation periods at least eight weeks out of the fifty-two weeks in the year. He therefore determined that if the truckman was an employee, he would be paid for forty-four weeks of the year at $36.00 per week or $1584.00 per year. Dividing $1584.00 by 12 months, he arrived at a claimed average wage for the truckmen of $132.00 per month and applied this $132.00 per month, as the basis of "wage" upon which the supplemental returns, Exhibits A to H, inclusive, were computed as against the truckmen engaged under the truckmen's contract.

In Exhibit I the same method of computation was followed, except that the assumed wage rate used was $42.50 per week. Effective January 1, 1942, the union wage scale

payable to plaintiff's employees engaged in driving equipment owned by the company was raised to $42.50 per week of 48 hours each.

(b) As to the unknown helpers so used by the truckmen, the Collector assumed that the helpers' wages would be 41.67% of the amount determined and set up by him as the truckmen's "wages" and added in, as a "lump sum", the calculated amounts in each supplemental return. The amounts of said calculated "wages" on account of "unknown helpers" are as follows:

"On sheet 2 of Exhibit "F", covering the month of November and December, 1937	$5,610.00
On sheet 26 of Exhibit "G", whereon the name of the employee is carried in the space provided therefor as "Dummy" for the years 1938 to 1940, inclusive	114,810.00
On Exhibit "H" for the year 1941	48,484.00
On Exhibit "I" for the quarter ending March 31, 1942	12,982.00
Total calculated "wages"	$181,886.00

The full amount of such calculated wages, plus the deductions incident to Title VIII assessments, also appears in the assessments levied under Title IX, Exhibits A to E, inclusive.

(c) From January 1, 1937 to February 15, 1940, a partnership consisting of Fred H. Goldsmith and Howard W. Hutchins, had a truckman's contract with plaintiff. The assessments respecting such partnership operated truck appear in Exhibits F and G under the name of F. H. Goldsmith. On and after February 15, 1940, the said partnership was dissolved and Howard W. Hutchins, as an individual thereupon executed a truckman's contract with plaintiff.

9. The additional assessment under the Federal Unemployment Tax Act (Title IX) in the total amount of $18,234.10, including accrued interest and penalty, was made and a "Notice and Demand" for the payment of tax due on Form SS17, Treasury Department, Internal Revenue Service, was duly served upon plaintiff and on the 30th day of October, 1942, plaintiff paid said tax, interest and penalty in the said total amount of $18,234.10.

10. Plaintiff thereupon filed with the Collector claims for refund for the taxes, penalty and interest so
41 claimed by plaintiff to be illegally collected, on Form 843, Treasury Department, Internal Revenue Service, being the Form provided for that use, for the periods aforesaid, and on January 2, 1943, plaintiff was duly notified of the disallowance of said claims for refund, after receipt of which notice of disallowance Cause No. 43 C 276 was filed.

11. The additional assessment under the Federal Insurance Contributions Act (Title VIII), together with interest and penalty, amounting to $13,992.09, was so made and "Notice and Demand" for payment of the tax, on Form SS17 was duly served on plaintiff, and on August 12, 1942, plaintiff paid the sum of $2713.32, and on September 25, 1942, plaintiff paid the sum of $11,278.77, making the combined total paid under said assessment of $13,992.09.

12. Plaintiff duly filed on Form 843, Treasury Department, Internal Revenue Service, being the Form provided for that purpose, with said Collector, claims for refund of the said tax claimed to be illegally collected. Thereafter plaintiff was duly notified of the disallowance of said claims for refund, after receipt of which notice of disallowance Cause No. 43 C 10 was filed.

J. Albert Woll,
J. Albert Woll,
United States Attorney,
Attorney for the Defendant.

Wilbur E. Bendy,
George T. Christie,
Attorneys for the Plaintiff.

42 **EXHIBIT "A".**

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1937

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1938

Read Instructions Carefully

(Collector's receipt stamp)	Do not write in this space No.
Taxpayer's Copy	Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail (Instruction 4) Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

1. Total wages paid or payable for the calendar year. (See instructions on reverse side)		$305,637.79
2. Less wages paid or payable for (explain on Schedule B if deductions are taken)—		
(a) Services performed outside the United States	$	
(b) Agricultural labor		
(c) Domestic service		
(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States		
(e) Family employment		$
3. Total wages subject to tax (Item 1 minus Item 2)		$305,637.79
4. Tax (2% of Item 3)		6,112.76
5. Less: Credit for contributions actually paid into State unemployment funds. (Read carefully instructions on reverse side under Schedule A before entering this item)		2,663.40
6. Balance of tax (Item 4 minus 5)		$ 3,449.36
Previously Paid		584.92
		2,864.44

Affidavit (See Instruction No. 5)

I we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to Title IX of the Social Security Act and Regulations issued thereunder and that no portion of the credit claimed in Item 5 above is with respect to a contribution made to any State fund on account of service performed outside the United States as outlined in Instruction 9, or for excepted service as outlined in Instruction 10.

nor is any part of such credit with respect to money deducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal) .....(Name) .....(Title)

.....(Name) .....(Title)

Signed or acknowledged before—

.....(Name) .....(Address)

Sworn to and subscribed before me this ..... day of ....., 193..

.....

(Seal) (Signature and title of officer administering oath)

43 EXHIBIT "B".

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1938

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1939

Read Instructions Carefully

(Collector's receipt stamp) Taxpayer's Copy	Do not write in this space No. Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail (Instruction 4) Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

Date of organization Feb. 23, 1929. Was a return filed for the year 1937? Yes.

1.	Total wages paid or payable for the calendar year. (See instructions on reverse side)	$285,448.99
2.	Less wages paid or payable for (explain on Schedule B if deductions are taken)—	
	(a) Services performed outside the United States	$
	(b) Agricultural labor	
	(c) Domestic service	
	(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States	
	(e) Family employment	$
3.	Total wages subject to tax (Item 1 minus Item 2)	$285,448.99
4.	Tax (3% of Item 3)	8,563.47
5.	Less: Credit for contributions actually paid into State unemployment funds. (Read carefully instructions on reverse side under Schedule A before entering this item)	4,449.86
6	Balance of tax (Item 4 minus Item 5)	4,113.61
	Previously Paid	755.04
		3,358.57

Affidavit (See Instruction No. 5)

I/we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to Title IX of the Social Security Act and Regulations issued thereunder and that no portion of the credit claimed in Item 5 above is with respect to a contribution made to any State fund on account of service performed outside the United States as outlined in Instruction 9, or for excepted service as outlined in Instruction 10, nor is any part of such credit with respect to money de-

ducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal) (Name) (Title)

(Name) (Title)

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 193.

(Seal) (Signature and title of officer administering oath)

44 EXHIBIT "C".

"Amended".

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under The Federal Unemployment Tax Act (Formerly Title IX Of The Social Security Act)

For Calendar Year 1939

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1940

Read Instructions Carefully

(Collector's receipt stamp)	For use of Collector only No.
Taxpayer's Copy	Amount Paid, $ (Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in Retail (Instruction 4)

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Estate or trust.

Date of organization Feb. 23, 1929. Were returns filed for all prior years? Yes. If not, attach explanation.

1. Total wages paid during the calendar year. (See instructions on reverse side)		$333,964.13
2. Less wages paid or payable for (explain on Schedule B if deductions are taken)—		
(a) Services performed outside the United States	$	
(b) Agricultural labor		
(c) Domestic service		
(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States		
(e) Family employment	$	
3. Total wages subject to tax (Item 1 minus Item 2)		$333,964.13
4. Tax (3% of Item 3)		10,018.92
5. Less: Credit for contributions actually paid into State unemployment funds not in excess of 90% of tax shown in Item 4. (Read carefully instructions on reverse side)		5,207.43
6. Balance of tax (Item 4 minus Item 5)	$	4,811.49
Previously paid on 940		897.12
Balance		3,914.37

Affidavit (See Instruction 5)

I, we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations issued thereunder and that no part of the credit claimed in Item 5 above is with respect to

money deducted or to be deducted from the wages of individuals in my/our employ.

(Corp.)
(Seal)

.....(Name) .....(Title)

.....(Name) .....(Title)

Signed or acknowledged before—

.....(Name) .....(Address)

.....(Name) .....(Address)

Sworn to and subscribed before me this ..... day of ....., 19....

(Seal)

.....(Signature and title of officer administering oath)

45 EXHIBIT "D".

"Amended".

Read Instructions Carefully

Form 940
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under Title IX of the Social Security Act

For Calendar Year 1940

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1941

Taxpayer's Copy.

This Copy Must Be Retained By Employer

Print Name And Address
Greyvan Lines, Inc.
(Name) (See Instruction 1)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail Long Distance Moving of Household Goods.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Other
(Specify, such as estate, trust, etc.)

Date of organization Feb. 23, 1929. Were returns filed for all prior years? If not, attach explanation.

1.	Total salaries, wages, and other remuneration Paid during 1940 for services of employees	$400,510.33
2.	Less: Total nontaxable remuneration paid. (From Schedule A—Must be explained in statement attached as a part hereof)	$ 16,102.70
3.	Total taxable wages (item 1 minus item 2)	$384,407.63
4.	Tax (3 percent of item 3)	$ 11,532.22
5.	Less: Credit for contributions actually paid into State unemployment funds not in excess of 90 percent of tax shown in item 4. From Schedule B)	$ 5,896.51
6.	Balance of tax (item 4 minus item 5)	$ 5,635.71
	Previously paid on 940	$ 1,203.25
	Balance	$ 4,432.46

Affidavit (See Instructions)

I/we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations applicable thereto and that no part of any payment made to a State unemployment fund which is claimed as a credit in Item 5 above was or is to be deducted from the remuneration of employees.

(Signed)

(Title)

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 19

(Signature and title of officer administering oath)

46 "Amended"

Form 940 — Read Instructions Carefully
Treasury Department
Internal Revenue Service

Annual Return Of Excise Tax On Employers Of Eight Or More Individuals

Under the Federal Unemployment Tax Act

For Calendar Year 1941

File This Return With The Collector Of Internal Revenue For Your District Not Later Than January 31, 1942

For use of Collector only
No.

Amount Paid, $

(Cashier's stamp)

Print Name And Address
Greyvan Lines, Inc.
(Name)
1338 S. Michigan Ave.
(Street and number or rural route)
Chicago, Cook, Illinois
(Post office) (County) (State)

Nature of business in detail Common Carrier by Motor Truck.

Check (√) form of organization: ☒ Corporation; ☐ Partnership; ☐ Individual; ☐ Other
(Specify, such as estate, trust, etc.)

Date of organization February 23, 1929. Was a return filed for 1940? Yes. If not, attach explanation.

1.	Total salaries, wages, and other remuneration Paid during 1941 for services of employees	$555,820.69
2.	Less: Total nontaxable remuneration paid. (From Schedule A—Must be explained in schedule A or in separate statement attached as a part hereof)	$ 31,034.26
3.	Total taxable wages (item 1 minus item 2)	$524,786.43
4.	Tax (3 percent of item 3)	$ 15,743.59
5.	Less: Credit for contributions actually paid into State unemployment funds (Schedule B), and any additional credit (Form 940-C), not in excess of 90 percent of tax shown in item 4	$ 9,052.87
6.	Remainder of tax (item 4 minus item 5)	$ 6,690.72
	Previously Paid	$ 1,741.64
	Balance Due	$ 4,949.08
	Delinquent Per @ 5%	$ 247.45
	Int. 1/31/42 to 8/15/42	$ 160.65
	To be assessed 3612 I R C	$ 5,357.18

To be amended under Section 3612 I. R. C.

C. A. McBride,
Dep. Col.

Affidavit (See Instructions)

I swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to the Federal Unemployment Tax Act and Regulations applicable thereto and that no part of any payment made to a State unemployment fund which

is claimed as a credit in Item 5 above was or is to be deducted from the remuneration of employees.

(Signed) .....
(Title) .....

Signed or acknowledged before—

(Name) (Address)

(Name) (Address)

Sworn to and subscribed before me this day of , 19

(Signature and title of officer administering oath)

B-1

Schedule A—Exemptions

This schedule must be prepared in accordance with the instructions entitled How To Prepare Schedule A—Exemptions, to show all nontaxable remuneration paid to employees. The total of this schedule is to be entered in item 2 on face of this form.

Classifications of Exemption (Explain deductions using separate sheet if necessary)	Approximate Number of Employees Involved	Amount Paid
Delaware	1	1,245.01
Illinois	10	23,348.29
New York	1	1,950.00
Ohio	3	2,825.30
Penn.	2	1,665.66
Total	x x	$31,034.26

Schedule B—State Contributions

(See paragraph G, General Instructions)

State in Which Employees Performed Service (1)	Number of Employees Within the State (Average of Quarterly Figures) (2)	Remuneration Reported to Each State Upon Which Contributions Required for 1941 Were Based (3)	State Contributions Paid With Respect to Remuneration in Column (3) (4)
Conn.	4	4,979.48	134.44
Dist. of Col.	6	4,809.96	129.88
Illinois	140	195,100.01	5,267.74
Maryland	5	5,792.77	156.40
Mass.	9	11,256.84	303.94
Michigan	6	6,646.32	199.39
Minnesota	4	5,465.80	27.33 @ .005%
Missouri	9	8,900.92	240.33
New York	30	39,211.82	1,058.72
Ohio	18	25,962.36	700.99
Penn.	14	21,664.41	584.94
Texas	3	4,759.80	128.52
Credit allowed for merit rating Minnesota			120.25
Total	x	x	$9,052.87

Were contributions paid to a State fund under any name other than that shown on the face of this return? no If so, under what name were they paid?

EXHIBIT "F" Sheet One of Two

STATEMENT TO CORRECT INFORMATION

On Schedule A of Form SS-1a Under Federal Insurance Contributions Act or on Forms SS-2 and SS-2a Under Title VIII of the Social Security Act

Identification No.

Greyvah Lines, Inc., 1338 S. Michigan Ave., Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number.

If the account number, name, or wages of one or more employees were omitted from or erroneously reported on one or more returns, each such error should be corrected on this form. See the explanation on the back of this form.

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
000,00,000			*Dollars Cents*	*Dollars Cents*
	Adams, S. H	Dec. 1937	None	264.00
	Blagrove, Z	Dec. 1937	"	264.00
	Blumenauer, H	Dec. 1937	"	264.00
	Cox, J. W	Dec. 1937	"	264.00
	Chapman, S. E	Dec. 1937	"	264.00
	DeNedde, C. W	Dec. 1937	"	264.00
	Eigert, Carl	Dec. 1937	"	264.00
	Fine, Mark	Dec. 1937	"	264.00
	Foote, D	Dec. 1937	"	264.00
	Godfrey, F. H	Dec. 1937	"	264.00
	Goldsmith, F. H	Dec. 1937	"	264.00
	Gent, C. E	Dec. 1937	"	264.00
	Grays, R., Br	Dec. 1937	"	264.00
	Henry, J	Dec. 1937	"	132.00
	Hagerman, C. R	Dec. 1937	"	264.00
	Hengels, Frank	Dec. 1937	"	264.00
	Hudson, John J	Dec. 1937	"	264.00
	Hunt, A. L	Dec. 1937	"	132.00
	Hayford, K	Dec. 1937	"	264.00
	Hampton, J. P	Dec. 1937	"	264.00
	Hart, S. S	Dec. 1937	"	264.00
	Kindel, Carl	Dec. 1937	"	264.00
	Kirschenlohr, Fred	Dec. 1937	"	264.00
	Krantz, Geo	Dec. 1937	"	264.00
	Lively, Henry W	Dec. 1937	"	264.00
	McCartney, H. E	Dec. 1937	"	264.00
	Maflay, S. E.	Dec. 1937	"	264.00
	Manfra, A	Dec. 1937	"	264.00
	Morgan, Harold	Dec. 1937	"	264.00
	Martin, C. W	Dec. 1937	"	264.00
	Mazza, F	Dec. 1937	"	264.00
	Nagengast, J	Dec. 1937	"	264.00
		Totals	None	8,184.00
		Difference Between Totals		8,184.00

48 Sheet Two of Two

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Narovec, N.	Dec. 1937	None	264.00
"	Nichols, Eugene	"	"	"
"	Nimmona, O. J.	Dec. 1937	"	264.00
"	Nelson, K. W.	Dec. 1937	"	264.00
"	Ogton, C. A.	Dec. 1937	"	264.00
"	Proece, W.	Dec. 1937	"	264.00
"	Ruflein, C.	Dec. 1937	"	264.00
"	Rahn, J. M.	Dec. 1937	"	264.00
"	Robinson, P.	Dec. 1937	"	264.00
"	Rue, C. I.	Dec. 1937	"	264.00
"	Schutier, W. S.	Dec. 1937	"	264.00
"	Smith, L. C.	Dec. 1937	"	264.00
"	Stevens, H. C.	Dec. 1937	"	264.00
"	Strass, W.	Dec. 1937	"	264.00
"	Stromberg, C.	Dec. 1937	"	132.00
"	Taiy, T.	Dec. 1937	"	264.00
"	Taylor, G. W.	Dec. 1927	"	264.00
"	Van Horne, M. V.	Dec. 1937	"	264.00
"	Veeser, C.	Dec. 1937	"	264.00
"	Ward, I. M.	Dec. 1937	"	264.00
"	Whitaker, O. B.	Dec. 1937	"	264.00
"	Watkins, J. G.	Dec. 1937	"	132.00
"	Unknown (Helpers)		"	5,610.00
		Totals	None	10,890.00
		Difference Between Totals,		10,890.00

I certify that the foregoing information is true and correct to the best of my knowledge and belief.

Date ....., 194.. ..... *Collector*

By ..... *Deputy Collector*

(Signature of employer when prepared by him) (District)

Send this form in duplicate to the Collector of Internal Revenue with whom the erroneous return was filed

16—1720

EXHIBIT "G" Sheet 1 of 26

STATEMENT TO CORRECT INFORMATION

On Schedule A of Form SS-1a Under Federal Insurance Contributions Act or on Forms SS-2 and SS-2a Under Title VIII of the Social Security Act

dentification No

Greyvan Lines, Inc., 1338 S. Michigan Ave., Chicago, Illinois.
nter in this space employer's name, address of principal place of business, and identification number.

If the account number, name, or wages of one or more employees were omitted from or erroneously reported on one or more return each such error should be corrected on this form. See the explanation on the back of this form.

mployee's ccount No	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Adams, S. H.	Mar. 1938	None	396.00
	Adams, S. H.	June 1938	"	396.00
	Adams, S. H.	Sept. 1938	"	396.00
	Adams, S. H.	Dec. 1938	"	396.00
	Adams, S. H.	Mar. 1938	"	396.00
	Anderson, H. K.	Sept. 1938	"	
	Ballard, J. L.	Sept. 1938	"	264.00
	Ballard, J. L.	Dec. 1939	"	264.00
	Binkley, B. B.	Mar. 1938	"	
	Binkley, B. B.	June 1938	"	396.00
	Binkley, B. B.	Sept. 1938	"	396.00
	Binkley, B. B.	Dec. 1938	"	396.00
	Binkley, B. B.	Mar. 1939	"	396.00
	Binkley, B. B.	June 1939	"	396.00
	Binkley, B. B.	Sept. 1939	"	396.00
	Beagrave, Z.	Mar. 1938	"	264.00
	Blumenaur, H.	Mar. 1938	"	396.00
	Blumenaur, H.	June 1938	"	396.00
	Blumenaur, H.	Sept. 1938	"	396.00
	Blumenaur, H.	Dec. 1938	"	396.00
	Blumenaur, H.	Mar. 1939	"	396.00
	Blumenaur, H.	June 1939	"	396.00
	Blumenaur, H.	Sept. 1939	"	396.00
	Blumenaur, H.	Dec. 1939	"	396.00
	Blumenaur, H.	Mar. 1940	"	396.00
	Blumenaur, H.	June 1940	"	396.00
	Blumenaur, H.	Sept. 1940	"	396.00
	Blumenaur, H.	Dec. 1940	"	396.00
	Beckwith, J. T.	Mar. 1938	"	
	Breniza, J. H.	Sept. 1938	"	264.00
	Breniza, J. H.	Dec. 1938	"	396.00
		Totals	None	10,560.00
		Difference Between Totals		10,560.00

50 Sheet II of

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Brensier, H	Mar. 1939	None	396.00
"	Brensier, H	June 1939	"	396.00
"	Brensier, H	Sept. 1939	"	396.00
"	Brensier, H	Dec. 1939	"	396.00
"	Brensier, H	Mar. 1939	"	396.00
"	Brensier, H	June 1940	"	396.00
"	Brensier, H	Sept. 1940	"	396.00
"	Brensier, H	Dec. 1940	"	396.00
"	Brammer, W. H	Mar. 1939	"	132.00
"	Brammer, W. H	June 1939	"	396.00
"	Brammer, W. H	Sept. 1939	"	264.00
"	Bacbr, A. C	June 1939	"	264.00
"	Bacbr, A. C	Sept. 1939	"	396.00
"	Bacbr, A. C	Dec. 1939	"	396.00
"	Bacbr, A. C	Mar. 1940	"	264.00
"	Bucholzer, J	Dec. 1939	"	264.00
"	Beatty	Mar. 1939	"	132.00
"	Beatty	June 1939	"	396.00
"	Beatty	Sept. 1939	"	132.00
"	Belch, J. F	[illegible]t. 1940	"	264.00
"	Belch, J. F	1940	"	396.00
"	Birdsell, F. A	[illegible]940	"	396.00
"	Birdsell, F. A	Sep[illegible]9[illegible]0	"	396.00
"	Birdsell, F. A	Dec. 1940	"	396.00
"	Burnett, J	Mar. 1940	"	264.00
"	Burnett, J	June 1940	"	396.00
"	Burnett, J	Sept. 1940	"	396.00
"	Burnett, J	Dec. 1940	"	396.00
"	Bucholser, J	Mar. 1940	"	396.00
"	Bucholser, J	June 1940	"	396.00
"	Bucholser, J	Sept. 1940	"	396.00
"	Bucholser, J	Dec. 1940	"	396.00
		Totals,	None	11,088.00
		Difference Between Totals,		11,088.00

51 Sheet III of

Unknown	Bolt, F. E	Sept. 1940	None	132.00
"	Bolt, F. E	Dec. 1940	"	264.00
"	Berush, J	Dec. 1940	"	396.00
"	Crawford, L. H	June 1938	"	396.00
"	Crawford, L. H	Sept. 1938	"	396.00
"	Crawford, L. H	Dec. 1938	"	396.00
"	Crawford, L. H	Mar. 1939	"	396.00
"	Crawford, L. H	June 1939	"	396.00
"	Crawford, L. H	Sept. 1939	"	396.00
"	Crawford, L. H	Dec. 1939	"	396.00
"	Crawford, L. H	Mar. 1940	"	132.00
"	Chapman, S. E	Mar. 1938	"	396.00
"	Chapman, S. E	June 1938	"	396.00
"	Chapman, S. E	Sept. 1938	"	396.00

ployee's ount No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Chapman, S. E.	Dec. 1938	None	396.00
"	Chapman, S. E.	Mar. 1939	"	396.00
"	Chapman, S. E.	June 1939	"	396.00
"	Chapman, S. E.	Sept. 1939	"	132.00
"	Cox, J. W.	Mar. 1938	"	396.00
"	Cox, J. W.	June 1938	"	396.00
"	Cox, J. W.	Sept. 1938	"	396.00
"	Cox, J. W.	Dec. 1938	"	132.00
"	Croscroft, C. A	Mar. 1938	"	264.00
"	Croscroft, C. A	June 1938	"	396.00
"	Croscroft, C. A	Sept. 1938	"	396.00
"	Croscroft, C. A	Dec. 1938	"	396.00
"	Croscroft, C. A	Mar. 1939	"	396.00
"	Croscroft, C. A	June 1939	"	396.00
"	Croscroft, C. A	Sept. 1939	"	396.00
"	Croscroft, C. A	Dec. 1939	"	396.00
"	Croscroft, C. A	Mar. 1940	"	396.00
		Totals,	None	10,956.00
		Difference Between Totals,		10,956.00
				Sheet IV of 26
known	Crowcroft, C. A.	June 1940	None	396.00
"	Crowcroft, C. A	Sept. 1940	"	396.00
"	Crowcroft, C. A.	Dec. 1940	"	396.00
"	Cunningham, J. B.	Sept. 1938	"	264.00
"	Cunningham, J. B.	Dec. 1938	"	396.00
"	Cunningham, J. B.	Mar. 1939	"	396.00
"	Cunningham, J. B.	June 1939	"	396.00
"	Call, F.	Mar. 1939	"	396.00
"	Call, F.	June 1939	"	264.00
"	Clark, H.	June 1939	"	396.00
"	Connell, L. T.	June 1939	"	396.00
"	Connell, L. T.	Sept. 1939	"	396.00
"	Connell, L. T.	Dec. 1939	"	396.00
"	Connell, L. T.	Mar. 1940	"	396.00
"	Connell, L. T.	June 1940	"	396.00
"	Connell, L. T.	Sept. 1940	"	396.00
"	Connell, L. T.	Dec. 1940	"	396.00
"	Cordee, H.	June 1940	"	396.00
"	Cordee, H.	Sept. 1940	"	396.00
"	Dearbrayn.	Mar. 1938	"	264.00
"	DeNee, C. W.	Mar. 1938	"	396.00
"	DeNee, C. W.	June 1938	"	396.00
"	DeNee, C. W.	Sept. 1938	"	396.00
"	DeNee, C. W.	Dec. 1938	"	396.00
"	DeNee, C. W.	Mar. 1939	"	396.00
"	DeNee, C. W.	June 1939	"	396.00
"	DeNee, C. W.	Sept. 1939	"	396.00
"	DeNee, C. W.	Dec. 1939	"	396.00
"	DeNee, C. W.	Mar. 1940	"	396.00
"	DeNee, C. W.	June 1940	"	396.00
		Totals,	None	11,880.00
		Difference Between Totals,		11,880.00

53 Sheet V

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Corrected Amount of Wages
			Dollars	Cents	Dollars
Unknown	DeNee, C. W	Sept. 1940	None		
"	DeNee, C. W	Dec. 1940	"		
"	Durr, B	June 1939	"		
"	Durr, B	Sept. 1939	"		
"	Durr, B	Dec. 1939	"		
"	Durr, B	Mar. 1940	"		
"	Durr, B	June 1940	"		
"	Durr, B	Sept. 1940	"		
"	Durr, B	Dec. 1940	"		
"	Denis, S. S	June 1939	"		
"	Denis, S. S	Sept. 1939	"		
"	Denis, S. S	Dec. 1939	"		
"	Denis, S. S.	Mar. 1940	"		
"	Denis, S. S	June 1940	"		
"	Denis, S. S	Sept. 1940	"		
"	Denis, S. S	Dec. 1940	"		
"	Deen, C. L.	June 1940	"		
"	Deen, C. L.	Sept. 1940	"		
"	Deen, C. L.	Dec. 1940	"		
"	Eigert, Carl	Mar. 1938	"		
"	Eigert, Carl	June 1938	"		
"	Eigert, Carl	Sept. 1938	"		
"	Eigert, Carl	Dec. 1938	"		
"	Eigert, Carl	Mar. 1939	"		
"	Eigert, Carl	June 1939	"		
"	Eigert, Carl	Sept. 1939	"		
"	Eigert, Carl	Dec. 1939	"		
"	Eigert, Carl	Mar. 1940	"		
"	Eigert, Carl	June 1940	"		
"	Eigert, Carl	Sept. 1940	"		
"	Eigert, Carl	Dec. 1940	"		
		Totals	None		
		Difference Between Totals			

54 Sheet VI

Unknown	Edelstein, B	June 1938	None	
"	Edelstein, B	Sept. 1938	"	
"	Edelstein, B	Dec. 1938	"	
"	Elliston, A. E.	Sept. 1940	"	
"	Elliston, A. E.	Dec. 1940	"	
"	Fine, Merle	Mar. 1938	"	
"	Fine, Merle	June 1938	"	
"	Fine, Merle	Sept. 1938	"	
"	Fine, Merle	Dec. 1938	"	
"	Fine, Merle	Mar. 1939	"	
"	Fine, Merle	June 1939	"	
"	Fine, Merle	Dec. 1939	"	
"	Foots, Don	Mar. 1938	"	
"	Foots, Don	June 1938	"	
"	Foots, Don	Sept. 1938	"	
"	Foots, Don	Dec. 1938	"	

loyee's unt No	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Foots, Don	Mar. 1938	None	396.00
	Foots, Don	June 1938	"	396.00
	Foots, Don	Sept. 1938	"	396.00
	Foots, Don	Dec. 1938	"	396.00
	Foots, Don	Mar. 1940	"	396.00
	Foots, Don	June 1940	"	396.00
	Foots, Don	Sept. 1940	"	396.00
	Foots, Don	Dec. 1940	"	396.00
	Fretz, J. S	Sept. 1938	"	132.00
	Fretz, J. S	Dec. 1938	"	132.00
	Ferguson, J. C	June 1939	"	396.00
	Ferguson, J. C	Sept. 1939	"	396.00
	Ferguson, J. C	Dec. 1939	"	396.00
	Ferguson, J. C	Mar. 1940	"	396.00
	Ferguson, J. C	June 1940	"	396.00
		Totals	None	10,956.00
		Difference Between Totals		10,956.00

Sheet VII of 26

known	Ferguson, J. C	Sept. 1940	None	396.00
	Ferguson, J. C	Dec. 1940	"	396.00
	Finkbeiner, W. H	Sept. 1940	"	132.00
	Finkbeiner, W. H	Dec. 1940	"	396.00
	Foote, Wendt	June 1940	"	396.00
	Foote, Wendt	Sept. 1940	"	396.00
	Foote, Wendt	Dec. 1940	"	396.00
	Genza, W	June 1938	"	264.00
	Genza, W	Sept. 1938	"	396.00
	Genza, W	Dec. 1938	"	396.00
	Genza, W	Mar. 1939	"	396.00
	Genza, W	Mar. 1940	"	
	Gant, Clarence	Mar. 1938	"	396.00
	Gant, Clarence	June 1938	"	396.00
	Gant, Clarence	Sept. 1938	"	396.00
	Gant, Clarence	Dec. 1938	"	132.00
	Godfrey, F. H	Mar. 1938	"	396.00
	Godfrey, F. H	June 1938	"	396.00
	Godfrey, F. H	Sept. 1938	"	396.00
	Godfrey, F. H	Dec. 1938	"	396.00
	Godfrey, F. H	Mar. 1939	"	
	Goldsmith	Mar. 1938	"	396.00
	Goldsmith	June 1938	"	396.00
	Goldsmith	Sept. 1938	"	396.00
	Goldsmith	Dec. 1938	"	396.00
	Goldsmith	Mar. 1939	"	396.00
	Goldsmith	June 1939	"	396.00
	Goldsmith	Sept. 1939	"	396.00
	Goldsmith	Dec. 1939	"	396.00
	Goldsmith	Mar. 1940	"	396.00
	Goldsmith	June 1940	"	396.00
		Totals	None	10,824.00
		Difference Between Totals		10,824.00

56 Sheet VIII

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars*
Unknown	Goldsmith	Sept. 1940	None	396.00
"	Goldsmith	Dec. 1940	"	396.00
"	Gray's, Robert	Mar. 1938	"	396.00
"	Grays, Robert	June 1938	"	396.00
"	Grays, Robert	Sept. 1938	"	396.00
"	Grays, Robert	Dec. 1938	"	396.00
"	Grays, Robert	Mar. 1939	"	396.00
"	Grays, Robert	June 1939	"	396.00
"	Grays, Robert	Sept. 1939	"	396.00
"	Grays, Robert	Dec. 1939	"	396.00
"	Grays, Robert	Mar. 1940	"	396.00
"	Grays, Robert	June 1940	"	396.00
"	Grays, Robert	Sept. 1940	"	396.00
"	Grays, Robert	Dec. 1940	"	396.00
"	Gustafson, C. T.	June 1939	"	132.00
"	Goodman, P. H.	Sept. 1939	"	264.00
"	Goodman, P. H.	Dec. 1939	"	264.00
"	Garrison, L.	Mar. 1939	"	132.00
"	Garrison, L.	June 1939	"	396.00
"	Garrison, L.	Sept. 1939	"	396.00
"	Garrison, L.	Dec. 1939	"	396.00
"	Hobbard, L.	Mar. 1939	"	132.00
"	Hobbart, L.	June 1939	"	396.00
"	Hobbart, L.	Sept. 1939	"	396.00
"	Hobbart, L.	Dec. 1939	"	396.00
"	Hobbart, L.	Mar. 1940	"	396.00
"	Hobbart, L.	June 1940	"	264.00
"	Hobbart, L.	Sept. 1940	"	396.00
"	Hobbart, L.	Dec. 1940	"	132.00
"	Garrison, L.	Mar. 1940	"	396.00
"	Garrison, L.	June 1940	"	396.00
		Totals,	None	10,824.00
		Difference Between Totals,		10,824.00

57 Sheet IX

Unknown	Garrison, L.	Sept. 1940	Unknown	396.00
"	Garrison, L.	Dec. 1940	"	132.00
"	Gruber, W. J.	June 1939	"	396.00
"	Gruber, W. J.	Sept. 1939	"	396.00
"	Gruber, W. J.	Dec. 1939	"	396.00
"	Gruber, W. J.	Mar. 1940	"	396.00
"	Garrison, Joe	Dec. 1940	"	264.00
"	Grainer, H.	June 1940	"	396.00
"	Grainer, H.	Sept. 1940	"	396.00
"	Grainer, H.	Dec. 1940	"	396.00
"	Graham, J.	Mar. 1940	"	264.00
"	Graham, J.	June 1940	"	396.00
"	Graham, J.	Sept. 1940	"	396.00
"	Graham, J.	Dec. 1940	"	396.00
"	Goody, K. A.	Dec. 1940	"	264.00
"	Hampton, J. F.	Mar. 1939	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
Unknown			*Dollars Cents*	*Dollars Cents*
"	Hampton, J. F.	June 1939	None	396.00
"	Hampton, J. F.	Sept. 1939	"	132.00
"	Hart, S. S.	Mar. 1939	"	396.00
"	Hart, S. S.	June 1939	"	396.00
"	Hart, S. S.	Sept. 1939	"	396.00
"	Hart, S. S.	Dec. 1939	"	396.00
"	Hart, S. S.	Mar. 1939	"	396.00
"	Hart, S. S.	June 1939	"	396.00
"	Hart, S. S.	Sept. 1939	"	396.00
"	Hart, S. S.	Dec. 1939	"	396.00
"	Hart, S. S.	Mar. 1940	"	396.00
"	Hart, S. S.	June 1940	"	396.00
"	Hart, S. S.	Sept. 1940	"	396.00
"	Hart, S. S.	Dec. 1940	"	396.00
"	Hayford, Riley	Mar. 1938	"	396.00
		Totals,	None	11,352.00
		Difference Between Totals,		11,352.00
				Sheet X of 26
Unknown	Hayford, Riley	June 1938	None	396.00
"	Hayford, Riley	Sept. 1938	"	396.00
"	Hayford, Riley	Dec. 1938	"	396.00
"	Hayford, Riley	Mar. 1939	"	396.00
"	Hayford, Riley	June 1939	"	396.00
"	Hayford, Riley	Sept. 1939	"	132.00
"	Kengale, Frank	Mar. 1938	"	396.00
"	Kengale, Frank	June 1938	"	396.00
"	Kengale, Frank	Sept. 1938	"	396.00
"	Kengale, Frank	Dec. 1938	"	396.00
"	Kengale, Frank	Mar. 1939	"	396.00
"	Hillier, V. L.	Mar. 1938	"	396.00
"	Hillier, V. L.	June 1938	"	396.00
"	Hillier, V. L.	Sept. 1938	"	396.00
"	Hillier, V. L.	Dec. 1938	"	396.00
"	Hillier, V. L.	Mar. 1939	"	396.00
"	Hudson, John	June 1938	"	396.00
"	Hudson, John	Sept. 1938	"	264.00
"	Hudson, John	Dec. 1938	"	
"	Hallberg, C. H.	Mar. 1939	"	132.00
"	Hallberg, C. H.	June 1939	"	396.00
"	Hallberg, C. H.	Sept. 1939	"	396.00
"	Hallberg, C. H.	Dec. 1939	"	396.00
"	Hallberg, C. H.	Mar. 1940	"	396.00
"	Hallberg, C. H.	June 1940	"	396.00
"	Hallberg, C. H.	Sept. 1940	"	396.00
"	Hallberg, C. H.	Dec. 1940	"	396.00
"	Hulett, O. C.	June 1939	"	396.00
"	Hulett, O. C.	Sept. 1939	"	396.00
"	Hamilton, O.	June 1939	"	132.00
"	Hamilton, O.	Sept. 1939	"	264.00
		Totals,	None	10,824.00
		Difference Between Totals,		10,824.00

59 Sheet XI of 2

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Harnburdge, L. A.	Mar. 1940	None	132.00
"	Harnburdge, L. A.	June 1940	"	396.00
"	Harnburdge, L. A.	Sept. 1940	"	396.00
"	Harnburdge, L. A.	Dec. 1940	"	396.00
"	Hall, B.	June 1940	"	396.00
"	Hall, B.	Sept. 1940	"	396.00
"	Hall, B.	Dec. 1940	"	.....
"	Graham, M. L.	Dec. 1940	"	132.00
"	Jackson, O.	June 1939	"	396.00
"	Jackson, O.	Sept. 1939	"	182.00
"	Johnson, F. W.	June 1940	"	264.00
"	Johnson, F. W.	Dec. 1940	"	396.00
"	Ives, D.	June 1940	"	396.00
"	Ives, D.	Sept. 1940	"	396.00
"	Ives, D.	Dec. 1940	"	396.00
"	Kaub, E.	Mar. 1938	"	132.00
"	Kaub, E.	June 1938	"	396.00
"	Kaub, E.	Sept. 1938	"	396.00
"	Kaub, E.	Dec. 1938	"	396.00
"	Kaub, E.	Mar. 1939	"	396.00
"	Kaub, E.	June 1939	"	396.00
"	Kaub, E.	Sept. 1939	"	396.00
"	Kaub, E.	Dec. 1939	"	396.00
"	Kaub, E.	Mar. 1940	"	396.00
"	Kaub, E.	June 1940	"	396.00
"	Kaub, E.	Sept. 1940	"	396.00
"	Kaub, E.	Dec. 1940	"	396.00
"	Kohn, V.	Mar. 1938	"	.....
"	Kohn, V.	June 1938	"	396.00
"	Kohn, V.	Sept. 1938	"	396.00
"	Kohn, V.	Dec. 1938	"	132.00
		Totals,	None	10,284.00
		Difference Between Totals,		10,284.00

60 Sheet XII of 2

Unknown	Kindel, Carl	Mar. 1938	Unknown	396.00
"	Kindel, Carl	June 1938	"	396.00
"	Kindel, Carl	Sept. 1938	"	264.00
"	Kirschenlohr, V.	Mar. 1938	"	396.00
"	Kirschenlohr, V.	June 1938	"	396.00
"	Kirschenlohr, V.	Sept. 1938	"	396.00
"	Kirschenlohr, V.	Dec. 1938	"	396.00
"	Kirschenlohr, V.	Mar. 1939	"	396.00
"	Kirschenlohr, V.	June 1939	"	264.00
"	Kranz, G.	Mar. 1938	"	396.00
"	Kraas, G. J.	June 1938	"	264.00
"	Kraas, G. J.	Sept. 1938	"	396.00
"	Kraas, G. J.	Dec. 1938	"	396.00
"	Kraas, G. J.	Mar. 1939	"	396.00
"	Kraas, G. J.	June 1939	"	396.00
"	Kraas, G. J.	Sept. 1939	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Kraas, G. J.	Dec. 1939	None	396.00
"	Kraas, G. J.	Mar. 1940	"	132.00
"	Kanyon, R.	June 1939	"	264.00
"	Kanyon, R.	Sept. 1939	"	396.00
"	Kanyon, R.	Dec. 1939	"	396.00
"	Kanyon, R.	Mar. 1940	"	132.00
"	Karbo, C.	June 1939	"	396.00
"	Karbo, C.	Sept. 1939	"	132.00
"	Kennits P. J.	June 1940	"	396.00
"	Kennits, P. J.	Sept. 1940	"	396.00
"	Kennits, P. J.	Dec. 1940	"	132.00
"	Hoover, J. W.	Mar. 1940	"	264.00
"	Kuetcher, J. G.	June 1940	"	264.00
"	Kuetcher, J. G.	Sept. 1940	"	264.00
"	Lively, H. W.	Mar. 1938	"	264.00
		Totals,	None	10,164.00
		Difference Between Totals.		10,164.00

61 Sheet XIII of 26

Unknown	Lanny, C.	June 1939	None	396.00
"	Lanny, C.	Sept. 1939	"	396.00
"	Lanny, C.	Dec. 1939	"	396.00
"	Lanny, C.	Mar. 1940	"	396.00
"	Lanny, C.	June 1940	"	264.00
"	Lengh	Mar. 1939	"	132.00
"	Lengh	June 1939	"	396.00
"	Lengh	Sept. 1939	"	396.00
"	Lengh	Dec. 1939	"	396.00
"	Lulklmann	Mar. 1939	"	
"	Lulklmann	June 1939	"	
"	Lichtenburg, J.	June 1939	"	396.00
"	Lichtenburg, J.	Sept. 1939	"	396.00
"	Lichtenburg, J.	Dec. 1939	"	396.00
"	Lichtenburg, J.	Mar. 1940	"	396.00
"	Lichtenburg, J.	June 1940	"	396.00
"	Lichtenburg, J.	Sept. 1940	"	396.00
"	Lichtenburg, J.	Dec. 1940	"	
"	Littlefield, E. J.	Dec. 1939	"	264.00
"	Littlefield, E. J.	Mar. 1940	"	396.00
"	Littlefield, E. J.	June 1940	"	
"	Littlefield, E. J.	Sept. 1940	"	
"	Littlefield, E. J.	Dec. 1940	"	
"	Lincoln, A. J.	Mar. 1940	"	396.00
"	Lincoln, A. J.	June 1940	"	396.00
"	Lincoln, A. J.	Sept. 1940	"	396.00
"	Lincoln, A. J.	Dec. 1940	"	396.00
"	Lange, U. M.	Mar. 1940	"	396.00
"	Lange, U. M.	June 1940	"	396.00
"	Lange, U. M.	Sept. 1940	"	396.00
"	Lange, U. M.	Dec. 1940	"	396.00
		Totals,	None	9,768.00
		Difference Between Totals.		9,768.00

62 Sheet XIV

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars*
Unknown	Long, A.	Mar. 1940	None	264.00
"	Lang, N.	Sept. 1940	"	264.00
"	Lang, N.	Dec. 1940	"	396.00
"	McCartney, N. N.	Mar. 1938	"	396.00
"	McCartney, N. N.	June 1938	"	264.00
"	McKay, S. F.	Mar. 1938	"	396.00
"	McKay, S. F.	June 1938	"	396.00
"	McKay, S. F.	Sept. 1938	"	396.00
"	McKay, S. F.	Dec. 1938	"	396.00
"	McKay, S. F.	Mar. 1939	"	[illegible]
"	McKay, S. F.	June 1939	"	396.00
"	McKay, S. F.	Sept. 1939	"	396.00
"	McKay, S. F.	Dec. 1939	"	396.00
"	McKay, S. F.	Mar. 1940	"	396.00
"	McKay, S. F.	June 1940	"	396.00
"	McKay, S. F.	Sept. 1940	"	396.00
"	McKay, S. F.	Dec. 1940	"	396.00
"	McAnanch, R. C.	Mar. 1939	"	132.00
"	McAnanch, R. C.	June 1939	"	396.00
"	McAnanch, R. C.	Sept. 1939	"	132.00
"	McGovern, L.	June 1939	"	264.00
"	McGovern, L.	Sept. 1939	"	396.00
"	McGovern, L.	Dec. 1939	"	396.00
"	McGovern, J.	Sept. 1940	"	396.00
"	McGovern, J.	Dec. 1940	"	396.00
"	Mains, R.	June 1938	"	264.00
"	Mains, R.	Mar. 1939	"	396.00
"	Mains, R.	June 1939	"	264.00
"	Manfra, A.	Mar. 1938	"	396.00
"	Manfra, A.	June 1938	"	396.00
"	Manfra, A.	Sept. 1938	"	396.00
		Totals	None	10,560.00
		Difference Between Totals		10,560.00

63 Sheet XV

Unknown	Manfra, A.	Dec. 1938	None	396.00
"	Manfra, A.	Mar. 1939	"	396.00
"	Manfra, A.	June 1939	"	396.00
"	Manfra, A.	Sept. 1939	"	396.00
"	Manfra, A.	Dec. 1939	"	396.00
"	Manfra, A.	Mar. 1940	"	396.00
"	Manfra, A.	June 1940	"	396.00
"	Manfra, A.	Sept. 1940	"	264.00
"	Manfra, A.	Dec. 1940	"	
"	Martin, C. M.	Mar. 1938	"	396.00
"	Martin, C. M.	June 1938	"	396.00
"	Martin, C. M.	Sept. 1938	"	396.00
"	Martin, C. M.	Dec. 1938	"	396.00
"	Martin, C. M.	Mar. 1939	"	396.00
"	Martin, C. M.	June 1939	"	396.00
"	Martin, C. M.	Sept. 1939	"	396.00

loyee's unt No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
known	Martin, C. M.	Dec. 1939	None	396.00
"	Martin, C. M.	Mar. 1940	"	396.00
"	Martin, C. M.	June 1940	"	264.00
"	Mazza, F.	Mar. 1938	"	396.00
"	Mazza, F.	June 1938	"	396.00
"	Mazza, F.	Sept. 1938	"	396.00
"	Mazza, F.	Dec. 1938	"	132.00
"	Morgan, H.	Mar. 1938	"	396.00
"	Morgan, H.	June 1938	"	396.00
"	Morgan, H.	Sept. 1938	"	396.00
"	Morgan, H.	Dec. 1938	"	396.00
"	Morgan, H.	Mar. 1939	"	396.00
"	Morgan, H.	June 1938	"	396.00
"	Morgan, H.	Sept. 1938	"	396.00
"	Morgan, H.	Dec. 1938	"	396.00
"	Morgan, H.	Mar. 1940	"	396.00
		Totals,	None	11,748.00
		Difference Between Totals,		11,748.00
				Sheet XVI of 26
known	Morgan, H.	June 1940	None	396.00
"	Morgan, H.	Sept. 1940	"	396.00
"	Morgan, H.	Dec. 1940	"	396.00
"	Martin, T. J.	Sept. 1938	"	264.00
"	Martin, T. J.	Dec. 1938	"	132.00
"	Manhardt, C.	Sept. 1939	"	132.00
"	Manhardt, C.	Dec. 1938	"	264.00
"	Martin, H. T.	Mar. 1939	"	396.00
"	Martin, H. T.	June 1939	"	396.00
"	Martin, H. T.	Sept. 1939	"	396.00
"	Martin, H. T.	Dec. 1939	"	396.00
"	Martin, H. T.	Mar. 1940	"	396.00
"	Martin, H. T.	June 1940	"	396.00
"	Martin, H. T.	Sept. 1940	"	396.00
"	Martin, H. T.	Dec. 1940	"	396.00
"	Murphy, J. T.	Mar. 1939	"	264.00
"	Murphy, J. T.	June 1939	"	396.00
"	Murphy, J. T.	Sept. 1939	"	396.00
"	Murphy, J. T.	Dec. 1939	"	396.00
"	Murphy, J. T.	Mar. 1940	"	396.00
"	Murphy, J. T.	June 1940	"	396.00
"	Murphy, J. T.	Sept. 1940	"	396.00
"	Murphy, J. T.	Dec. 1940	"	396.00
"	Metcalf, A.	June 1939	"	132.00
"	Metcalf, A.	Sept. 1939	"	396.00
"	Metcalf, A.	Dec. 1939	"	396.00
"	Metcalf, A.	Mar. 1940	"	264.00
"	Metcalf, A.	June 1940	"	
"	Meehan, H. W.	Sept. 1939	"	396.00
"	Meehan, H. W.	Dec. 1939	"	396.00
"	Meehan, H. W.	Mar. 1940	"	396.00
		Totals,	None	10,560.00
		Difference Between Totals,		

65 Sheet XV

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Cor Amo of W
			Dollars	*Cents*	*Dollars*
Unknown	Meehan, H. W.	June 1940	None		3
"	Meehan, H. W.	Sept. 1940	"		3
"	Meehan, H. W.	Dec. 1940	"		2
"	Miller, J. I.	Mar. 1939	"		
"	Miller, J. I.	June 1939	"		
"	Miller, J. I.	Sept. 1939	"		
"	Miller, J. I.	Dec. 1939	"		1
"	Miller, J. I.	Mar. 1940	"		3
"	Miller, J. I.	June. 1940	"		3
"	Miller, J. I.	Sept. 1940	"		3
"	Miller, J. I.	Dec. 1940	"		3
"	Eagengast, J.	Mar. 1938	"		3
"	Eagengast, J.	June 1938	"		3
"	Eagengast, J.	Sept. 1938	"		3
"	Eagengast, J.	Dec. 1938	"		3
"	Eagengast, J.	Mar. 1939	"		3
"	Eagengast, J.	June 1939	"		3
"	Eagengast, J.	Sept. 1939	"		3
"	Eagengast, J.	Dec. 1939	"		3
"	Eagengast, J.	Mar. 1940	"		3
"	Eagengast, J.	June 1940	"		3
"	Eagengast, J.	Sept. 1940	"		3
"	Eagengast, J.	Dec. 1940	"		3
"	Harcros, H.	Mar. 1938	"		3
"	Harcros, H.	June 1938	"		1
"	Harcros, H.	Mar. 1940	"		3
"	Harcros, H.	June 1940	"		3
"	Harcros, H.	Sept. 1940	"		3
"	Harcros, H.	Dec. 1940	"		3
"	Hinmans, A. J.	Mar. 1939	"		3
"	Hinmans, A. J.	June 1939	"		3
		Totals,			10,42
		Difference Between Totals,			10,42

66 Sheet XVIII

Unknown	Hinmans, A. J.	Sept. 1939	None		3
"	Hinmans, A. J.	Dec. 1939	"		3
"	Hinmans, A. J.	Mar. 1940	"		3
"	Hinmans, A. J.	June 1940	"		3
"	Hinmans, A. J.	Sept. 1940	"		1
"	Hinmans, A. J.	Dec. 1940	"		
"	Nelson, R. H.	Mar. 1938	"		3
"	Nelson, R. H.	Mar. 1938	"		2
"	Hinmans, A. J.	June 1938	"		3
"	Hinmans, A. J.	June 1938	"		3
"	Hinmans, A. J.	Sept. 1939	"		3
"	Hinmans, A. J.	Dec. 1938	"		3
"	Noble, J. A.	Sept. 1938	"		3
"	Noble, J. A.	Dec. 1938	"		1
"	Nystrom, W. E.	Sept. 1938	"		3

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Nystrom, W. E	Dec. 1938	None	
"	Noland, C	June 1940	"	396.00
"	Noland, C	Sept. 1940	"	396.00
"	Nelson, H	Mar. 1940	"	264.00
"	Orton, C. A	Mar. 1938	"	264.00
"	Osborn, L	June 1939	"	396.00
"	Osborn, L	Sept. 1939	"	396.00
"	Osborn, L	Dec. 1939	"	396.00
"	Osborn, L	Mar. 1940	"	396.00
"	Osborn, L	June 1940	"	396.00
"	Osborn, L	Sept. 1940	"	396.00
"	Osborn, L	Dec. 1940	"	396.00
"	Oliver, L. A	Dec. 1940	"	132.00
"	Oakley, J. H	Dec. 1940	"	132.00
"	Pease, W	Mar. 1938	"	396.00
"	Pease, W	June 1938	"	396.00
		Totals	None	9,768.00
		Difference Between Totals		9,768.00
				Sheet XIX of 26.
Unknown	Prosce, W	Sept. 1938	None	396.00
"	Prosce, W	Dec. 1938	"	396.00
"	Prosce, W	Mar. 1938	"	396.00
"	Prosce, W	June 1938	"	396.00
"	Prosce, W	Sept. 1938	"	396.00
"	Prosce, W	Dec. 1939	"	396.00
"	Prosce, W	Mar. 1940	"	396.00
"	Prosce, W	June 1940	"	396.00
"	Prosce, W	Sept. 1940	"	396.00
"	Parsley	Dec. 1940	"	396.00
"	Parslay, W. R	Mar. 1938	"	
"	Parslay, W. R	June 1938	"	
"	Parslay, W. R	Sept. 1938	"	264.00
"	Parslay, W. R	Dec. 1938	"	396.00
"	Parslay, W. R	Mar. 1939	"	396.00
"	Parslay, W. R	June 1939	"	396.00
"	Parslay, W. R	Sept. 1939	"	396.00
"	Parslay, W. R	Dec. 1939	"	396.00
"	Parslay, W. R	Mar. 1940	"	396.00
"	Parslay, W. R	June 1940	"	396.00
"	Parslay, W. R	Sept. 1940	"	396.00
"	Parslay, W. R	Dec. 1940	"	396.00
"	Pedersen, K	June 1939	"	264.00
"	Pedersen, K	Sept. 1939	"	396.00
"	Pedersen, K	Dec. 1939	"	396.00
"	Pedersen, K	Mar. 1940	"	132.00
"	Plowman, L	June 1939	"	396.00
"	Plowman, L	Sept. 1939	"	396.00
"	Plowman, L	Dec. 1939	"	66.00
"	Plowman, L	Mar. 1940	"	
		Totals	None	9,834.00
		Difference Between Totals		9,834.00

68 Sheet XX of 26

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Parks, W. C	Mar. 1939	None	396.00
"	Parks, W. C	June 1939	"	396.00
"	Parks, W. C	Sept. 1939	"	396.00
"	Parks, W. C	Dec. 1939	"	396.00
"	Parks, W. C	Mar. 1940	"	396.00
"	Parks, W. C	June 1940	"	396.00
"	Parks, W. C	Sept. 1940	"	396.00
"	Parks, W. C	Dec. 1940	"	396.00
"	Pethe, W	Sept. 1939	"	132.00
"	Pethe, W	Dec. 1939	"	396.00
"	Pethe, W	Mar. 1940	"	396.00
"	Pethe, W	June 1940	"	396.00
"	Pethe, W	Sept. 1940	"	396.00
"	Pethe, W	Dec. 1940	"	396.00
"	Rahn, J. H	Mar. 1938	"	396.00
"	Rahn, J. H	June 1938	"	396.00
"	Rahn, J. H	Sept. 1938	"	396.00
"	Rahn, J. H	Dec. 1938	"	396.00
"	Rahn, J. H	Mar. 1939	"	396.00
"	Rahn, J. H	June 1939	"	132.00
"	Riflein, C	Mar. 1938	"	396.00
"	Riflein, C	June 1938	"	396.00
"	Riflein, C	Sept. 1938	"	396.00
"	Riflein, C	Dec. 1938	"	396.00
"	Riflein, C	Mar. 1939	"	132.00
"	Riflein, C	June 1939	"	396.00
"	Riflein, C	Sept. 1939	"	396.00
"	Riflein, C	Dec. 1939	"	396.00
"	Riflein, C	Mar. 1940	"	396.00
"	Riflein, C	June 1940	"	396.00
"	Riflein, C	Sept. 1940	"	396.00
"	Riflein, C	Dec. 1940	"	396.00
		Totals,	None	11,484.00
		Difference Between Totals,		11,484.00

69 Sheet XXII of 25

Unknown	Robinson, W. H	Mar. 1938	None	396.00
"	Robinson, W. H	June 1938	"	264.00
"	Rue, C. L	Mar. 1938	"	396.00
"	Rue, C. L	June 1938	"	396.00
"	Rue, C. L	Sept. 1938	"	396.00
"	Rue, C. L	Dec. 1938	"	396.00
"	Rue, C. L	Mar. 1939	"	396.00
"	Rue, C. L	June 1939	"	396.00
"	Roodoll, H	Dec. 1939	"	132.00
"	Roodoll, H	June 1939	"	396.00
"	Roodoll, H	Sept. 1939	"	396.00
"	Roodoll, H	Mar. 1940	"	396.00
"	Roodoll, H	June 1940	"	264.00
"	Redwine, J	Mar. 1940	"	396.00

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
Unknown	Hadwin, [illegible]	June 1940	None	396.00
"	Rogine, J	Sept. 1940	"	
"	Rounds, H	Mar. 1940	"	132.00
"	Rounds, H	June 1940	"	396.00
"	Rounds, H	Sept. 1940	"	396.00
"	Rounds, H	Dec. 1940	"	396.00
"	Singler, J	Sept. 1939	"	132.00
"	Singler, J	Dec. 1939	"	396.00
"	Singler, J	Mar. 1939	"	132.00
"	Stevens, H. C	Mar. 1939	"	792.00
"	Stevens, R. C	June 1939	"	792.00
"	Stevens, R. C	Sept. 1939	"	792.00
"	Stevens, R. C	Dec. 1939	"	624.00
"	Stevens, R. C	Mar. 1939	"	792.00
"	Stevens, R. C	June 1939	"	792.00
"	Stevens, R. C	Sept. 1939	"	792.00
"	Stevens, R. C	Dec. 1939	"	624.00
		Total	None	13,392.00
		Difference Between Totals		13,392.00

Unknown	Stevens, R. C	Mar. 1940	None	792.00
"	Stevens, R. C	June 1940	"	792.00
"	Stevens, R. C	Sept. 1940	"	792.00
"	Stevens, R. C	Dec. 1940	"	622.00
"	Strans, W	Mar. 1938	"	396.00
"	Strans, W	June 1938	"	396.00
"	Strans, W	Sept. 1938	"	396.00
"	Strans, W	Dec. 1938	"	396.00
"	Strans, W	Mar. 1939	"	396.00
"	Strans, W	June 1939	"	396.00
"	Strans, W	Sept. 1939	"	396.00
"	Strans, W	Dec. 1939	"	396.00
"	Strans, W	Mar. 1940	"	396.00
"	Strans, W	June 1940	"	396.00
"	Strans, W	Sept. 1940	"	396.00
"	Strans, W	Dec. 1940	"	396.00
"	Shorten, S	June 1939	"	264.00
"	Shorten, S	Sept. 1939	"	264.00
"	Siler, R	June 1939	"	132.00
"	Siler, R	Sept. 1939	"	396.00
"	Siler, R	Dec. 1939	"	396.00
"	Siler, R	Mar. 1939	"	396.00
"	Siler, H	June 1940	"	396.00
"	Siler, R	Sept. 1940	"	132.00
"	Seralin, W	Sept. 1939	"	264.00
"	Seralin, W	Dec. 1939	"	264.00
"	Seralin, W	Sept. 1940	"	
"	Suvee, L	Sept. 1939	"	264.00
"	Suven, L	Dec. 1939	"	396.00
"	Suvee, L	Mar. 1940	"	396.00
"	Suvee, L	June 1940	"	396.00
		Totals	None	12,108.00
		Difference Between Totals		12,108.00

71 Sheet XXIII

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars C*
Unknown	Suver, L	Sept. 1940	None	396.0
"	Suver, L	Dec. 1940	"	396.0
"	Scharch, N	Mar. 1940	"	132.0
"	Scharch, N	June 1940	"	264.0
"	Scharch, N	Sept. 1940	"	396.0
"	Scharch, N	Dec. 1940	"	396.0
"	Suice, G	Mar. 1940	"	396.0
"	Suice, G	June 1940	"	396.0
"	Suice, G	Sept. 1940	"	396.0
"	Suice, G	Dec. 1940	"	396.0
"	Selfere, J. W	June 1940	"	132.0
"	Selfere, J. W	Sept. 1940	"	396.0
"	Selfere, J. W	Dec. 1940	"	396.0
"	Schafer, G	Dec. 1940	"	396.0
"	Taylor, G. W	Mar. 1938	"	396.0
"	Taylor, G. W	June 1938	"	396.0
"	Taylor, G. W	Sept. 1938	"	396.0
"	Taylor, G. W	Dec. 1938	"	396.0
"	Taylor, G. W	Mar. 1938	"	396.0
"	Taylor, G. W	June 1939	"	396.0
"	Taylor, G. W	Sept. 1939	"	132.0
"	Tady, T	Mar. 1938	"	396.0
"	Tady, T	June 1938	"	264.0
"	Townsend, L	June 1940	"	264.0
"	Townsend, L	Sept. 1940	"	396.0
"	Townsend, L	Dec. 1940	"	396.0
"	Van Horne, W. M	Mar. 1938	"	396.0
"	Van Horne, W. M	June 1938	"	396.0
"	Van Horne, W. M	Sept. 1938	"	396.0
"	Van Horne, W. M	Dec. 1938	"	396.0
"	Van Horne, W. M	Mar. 1939	"	396.0
		Totals,	None	11,088.0
		Difference Between Totals,		11,088.0

72 Sheet XXIV

Unknown	Van Horne, W. M	June 1939	None	396.0
"	Van Horne, W. M	Sept. 1939	"	396.0
"	Van Horne, W. M	Dec. 1939	"	396.0
"	Van Horne, W. M	Mar. 1940	"	396.0
"	Van Horne, W. M	June 1940	"	396.0
"	Van Horne, W. M	Sept. 1940	"	396.0
"	Van Horne, W. M	Dec. 1940	"	396.0
"	Vesser, C	Mar. 1938	"	396.0
"	Vesser, C	June 1938	"	264.0
"	Ward, W. M	Mar. 1938	"	396.0
"	Ward, W. H	June 1938	"	396.0
"	Ward, W. H	Sept. 1938	"	396.0
"	Ward, W. H	Dec. 1938	"	396.0
"	Ward, W. H	Mar. 1939	"	396.0
"	Ward, W. H	June 1939	"	132.0

ee's t No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return	Correct Amount of Wages
			Dollars Cents	*Dollars Cents*
wn	Whitaker, O. N	Mar. 1938	None	396.00
	Whitaker, O. N	June 1938	"	396.00
	Whitaker, O. N	Sept. 1938	"	396.00
	Whitaker, O. N	Dec. 1938	"	396.00
	Whitaker, O. N	Mar. 1939	"	396.00
	Whitaker, O. N	June 1939	"	132.00
	Walfore, E. H	Mar. 1938	"	
	Walfore, E. H	June 1839	"	264.00
	Walfore, E. H	Sept. 1938	"	396.00
	Walfore, E. H	Dec. 1938	"	396.00
	Walfore, E. H	Mar. 1939	"	396.00
	Walfore, E. H	June 1939	"	396.00
	Walfore, E. H	Sept. 1939	"	396.00
	Walfore, E. H	Dec. 1939	"	396.00
	Walfore, E. H	Mar. 1940	"	396.00
	Walfore, E. H	June 1940	"	396.00
		Totals	None	11,088.00
		Difference Between Totals,		11,088.00
				Sheet XXX of 26
own	Walfore, E. H	Sept. 1940	None	396.00
	Walfore, E. H	Dec. 1940	"	396.00
	Wells, E. C	June 1939	"	264.00
	Wells, E. C	Sept. 1939	"	396.00
	Wells, E. C	Dec. 1939	"	396.00
	Wells, E. C	Mar. 1940	"	396.00
	Wells, E. C	June 1940	"	396.00
	Wells, E. C	Sept. 1940	"	396.00
	Wells, E. C	Dec. 1940	"	396.00
	Walter, O	May 1939	"	132.00
	Walter, O	June 1939	"	396.00
	Walfe, E. H	Sept. 1939	"	
	Woolf, S	June 1939	"	396.00
	Woolf, S	Sept. 1939	"	396.00
	Woolf, S	Dec. 1939	"	132.00
	Winfrey, H. J	June 1940	"	132.00
	Winfrey, H. J	Sept. 1940	"	396.00
	Winfrey, H. J	Dec. 1940	"	264.00
	Weigand, O. W	Dec. 1940	"	264.00
	Schreffler, H	Dec. 1940	"	132.00
	Yeager	Mar. 1939	"	132.00
	Yeager	June 1939	"	396.00
	Sackerman, S	Sept. 1939	"	264.00
	Sackerman, S	Dec. 1939	"	396.00
	Sackerman, S	Mar. 1939	"	396.00
	Sackerman, S	June 1939	"	396.00
	Sackerman, S	Sept. 1939	"	396.00
	Sackerman, S	Dec. 1939	"	396.00
	Sackerman, S	Mar. 1940	"	396.00
	Sackerman, S	June 1940	"	132.00
		Totals	None	1,392.00
		Difference Between Totals		1,392.00

74 Sheet XXVI of 2

Employee's Account No.	Name of Employee (Type or print)	Last Month and Year of Period to be Corrected	Amount of Wages Actually Reported on Return		Correct Amount of Wages	
			Dollars	*Cents*	*Dollars*	*Cents*
Unknown	Dummy	Mar. 1938	None		8,177	00
"	Dummy	June 1938	"		8,305	00
"	Dummy	Sept. 1938	"		8,360	00
"	Dummy	Dec. 1938	"		8,086	00
"	Dummy	Mar. 1939	"		7,810	00
"	Dummy	June 1939	"		11,069	00
"	Dummy	Sept. 1939	"		10,175	00
"	Dummy	Dec. 1939	"		9,323	00
"	Dummy	Mar. 1940	"		9,790	00
"	Dummy	June 1940	"		11,165	00
"	Dummy	Sept. 1940	"		11,385	00
"	Dummy	Dec. 1940	"		11,165	00
"	G. Suess	June 1939	"		132	00
"	G. Suess	Sept. 1939	"		396	00
"	G. Suess	Dec. 1939	"		396	00
"	Dummy	June 1940	"		396	00
"	Dummy	Sept. 1940	"		396	00
"	Dummy	Dec. 1940	"		396	00
"	Van Horn, D. D	June 1940	"		264	00
"	Van Horn, D. D	Sept. 1940	"		132	00
		Totals	None		117,318	00
		Difference Between Totals			117,318	00

I certify that the foregoing information is true and correct to the best of my knowledge and belief.

Date ....., 194.... ....., *Collector*

By ....., *Deputy Collector*

....
(Signature of employer when prepared by him) (District)

Send this form in duplicate to the Collector of Internal Revenue with whom the erroneous return was filed.

16—1792

75 **EXHIBIT "H".**

Employer's Tax Return.

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21)		$36,092.00
	Employers' Tax.		
3.	1% of Item 2	$360.92	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 360.92
	Employees' Tax.		
6.	1% of Item 2	$360.92	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 360.92
9.	Total tax (total of Items 5 and 8)		$ 721.84

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Line, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Mar. 31, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2 (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, attach the statement called for in Item 16 of Instructions.
(Yes or No)

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instruction<.

Employee's Account Number (17) / Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents	State (20)
Balch, J.	396	—	
Barnett, J.	264	—	
Bauholzer, J.	264	—	
Birdsell, F.	396	—	
Blumenauer, H.	396	—	
Barush, J.	396	—	
Bossert, G.	132	—	
Brenizer, J.	396	—	
Christner, G.	132	—	
Clifford, W.	—o—		
Connell, L.	396	—	
Cordes, H.	396	—	
Crowcroft, G. A.	396	—	
Dean, C. L.	396	—	
Dennis, S.	396	—	
Durham, E.	264	—	
Eggers, C.	396	—	
Elliston, A.	396	—	
Finkbeiner, W.	396	—	
Foote, D.	792	—	
Garrison, J.	396	—	
Graham, J.	396	—	
Graham, M.	396	—	
Gray, A.	132	—	
Grays, Robert	396	—	
Greiner, H.	396	—	
Hallberg, C.	396	—	
Haraburda, L.	396	—	
Harrold, E. A.	—o—		
Hart, E	132	—	
Hart, S. S.	396	—	
Hastings, W.	132	—	
Hiesley, W.	264	—	
Hutchins, H. W.	396	—	
Ives, D.	396	—	
Kaub, E.	396	—	
Lange, W.	792	—	
Total for This Page— Total taxable wages paid	$12804	—	

21. Total for This Return—
Total taxable wages paid $36092 00 (This total must be the same as Item 2 above.)

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter .....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

76 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Forms SS-1 a.

Date Quarter Ended Mar. 31st, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Lichtenberg, J.	660.00
Lincoln, Jr., A.	132.00
McGovern, L.	396.00
McNay, S. E.	264.00
Miller, J.	396.00
Morgan, H.	396.00
Nagengast, J.	396.00
Narovec, H.	396.00
Oakley, J.	396.00
Oliver, L.	396.00
Osborn, L.	396.00
Parks, W.	396.00
Parsley, M. R.	396.00
Petke, W.	396.00
Preece, W.	396.00
Riflein, C.	396.00
Riser, J.	132.00
Rounds, W. M.	396.00
Schaeffer, Jr., G.	396.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H.	792.00
Strass, W.	396.00
Suess, G.	528.00
Suess, L.	396.00
Telford, J.	396.00
Urban, A.	132.00
Van Horne, M. W.	396.00
Weigand, C.	396.00
Wells, C. N.	264.00
Wells, E.	396.00
Wulfors, E.	396.00
York, H.	264.00
Ainsworth, E.	—o—
Alleman, H.	—o—
Allsop, J.	—o—
Brown, C.	—o—

Buckley, I.	—0—
Clegg, J.	—0—
Dempster, R.	—0—
Ellifson, M.	—0—
Fretsche, R.	—0—
Ginder, C.	—0—
Total for This Page— Total taxable wages paid	$12672.00

77 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b

Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Forms SS-1 a.

Date Quarter Ended Mar 31, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Name of Employee (Type or print) (18)	Employee's Account Number (17) Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Hancock, R.	—0—
Hoffman, C.	—0—
Matson, C.	—0—
Nimz, J.	—0—
Novak, F.	—0—
Nunis, A.	—0—
Pembroke, R.	—0—
Scott, R.	—0—
Walther, R.	—0—
Weaver, J.	—0—
Wick, J.	—0—
Wilson, C.	—0—
Unknown Helpers	10,616.00
Total for This Page— Total taxable wages paid	$10,616.00

78 Employer's Tax Return.

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all [redacted]s be available for inspection by officers of the Bureau [redacted] Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21).		$43,946
	Employers' Tax.		
3.	1% of Item 2.....	$439.46	
4.	Credit or adjustment.....	$	
	(Must be explained. See instructions)		
5.	Total employers' tax.....		$ 439.46
	Employees' Tax.		
6.	1% of Item 2.....	$439.46	
7.	Credit or adjustment.....	$	
	(Must be explained. See instructions)		
8.	Total employees' tax.....		$ 439.46
9.	Total tax (total of Items 5 and 8).....		$ 878.92

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended June 30, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership or other transfer, of the business taken place during the quarter? No. If (Yes or No) so, attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents
Balch, J.	396	—
Barnett, J.	—o—	
Banholzer, J.	396	—
Birdsell, F.	264	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	396	—
Clifford, W.	396	—
Connell, L.	132	—
Cordes, H.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Dennis, S.	132	—
Durham, N.	396	—
Eggers, C.	396	—
Elliston, A.	396	—
Finkbeiner, W.	396	—
Foote, D.	792	—
Garrison, J.	396	—
Graham, J.	396	—
Graham, M.	396	—
Gray, A.	264	—
Grays, Robert	396	—
Greiner, H.	396	—
Hallberg, C.	396	—
Haraburda, L.	396	—
Harrold, E. A.	264	—
Hart, E.	396	—
Hart, S. S.	396	—
Hastings, W.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Ives, D.	396	—
Kaub, E.	396	—
Lange, W.	792	—
Total for This Page— Total taxable wages paid	$14124	

21. Total for This Return— Total taxable wages paid	$43946	00	This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter .....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

79 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended June 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Lichtenberg, J.	792.00
Lincoln, Jr., A.	—o—
McGovern, L.	—o—
McNay, S. E.	—o—
Miller, J.	—o—
Morgan, H.	792.00
Nagengast, J.	—o—
Narovec, H.	396.00
Oakley, J.	396.00
Oliver, L.	264.00
Osborn, L.	396.00
Parks, W.	396.00
Parsley, M. R.	396.00
Petke, W.	396.00
Preece, W.	396.00
Riflein, C.	396.00
Rizer, J.	396.00
Rounds, W. M.	396.00
Schaeffer, Jr., G.	132.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H.	792.00
Strass, W.	396.00
Suess, C.	792.00
Suess, L.	396.00
Telford, J.	396.00
Urban, A.	396.00
Van Horne, M. W.	264.00
Weigand, C.	396.00
Wells, C. H.	264.00
Wells, E.	396.00
Wulfoors, B.	396.00
York, R.	396.00
Ainsworth, E.	264.00
Alleman, H.	264.00
Allsop, J.	—o—

Brown, C.	396.00
Buckley, T.	264.00
Clegg, J.	132.00
Dempster, R.	264.00
Ellifson, M.	264.00
Fretsche, R.	264.00
Ginder, C.	—o—
Total for This Page— Total taxable wages paid	$14124.00

80 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended June 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions on reverse of Form SS-1 a.<

Employee's Account Number
(17)

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Hancock, R.	396.00
Hoffman, C.	132.00
Matson, C.	132.00
Nimz, J.	396.00
Novak, F.	—o—
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	—o—
Walther, R.	264.00
Weaver, J.	264.00
Wick, J.	—o—
Wilson, C.	396.00
Unknown Helpers	12,926.00
Total for This Page— Total taxable wages paid	$15,698.00

81 **Employer's Tax Return.**

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service.

Read Instructions Carefully

Supplemental Return.

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A.		
2.	Total taxable wages Paid (from Item 21).		$44,881.00
	Employers' Tax.		
3.	1% of Item 2	$448.81	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 448.81
	Employees' Tax.		
6.	1% of Item 2	$448.81	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 448.81
9.	Total tax (total of Items 5 and 8)		$ 897.62

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Sept. 30, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

15. Total pages of return, including continuation sheets attached 3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If (Yes or No) so, attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Employee's Account Number (17) Taxable Wages Paid Under Federal Insurance Contributions Act (19)	
	Dollars	Cents
Balch, J.	396	—
Bauholzer, J.	396	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	264	—
Clifford, M.	396	—
Cordes, H.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Durham, E.	396	—
Eggers, C.	396	—
Elliston, A.	132	—
Finkbeiner, W.	396	—
Foote, D.	792	—
Garrison, J.	264	—
Graham, J.	396	—
Graham, M.	396	—
Grays, Robert	264	—
Hallberg, C.	396	—
Harburda, L.	396	—
Hart, E.	396	—
Hart, S. S.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Kaub, E.	396	—
Lange, W.	792	—
Lichtenberg, J.	528	—
Morgan, H.	792	—
Oakley, J.	132	—
Osborn, L.	396	—
Parks, W.	396	—
Parsley, M. R.	396	—
Petka, W.	396	—
Preece, W.	396	—
Rizer, J.	396	—
Total for This Page— Total taxable wages paid	$15048	—

21. Total for This Return—
Total taxable wages paid $44881 00 { This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter.....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

82 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended Sept. 30, 1941.

A Summary Sheet Must Accompany This Form
Read Instructions Carefully.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Rounds, W. M.	396.00
Scharch, E.	396.00
Schreffler, H.	396.00
Stevens, H. C.	792.00
Strass, W.	396.00
Suess, G.	396.00
Suess, L.	396.00
Telford, J.	132.00
Weigand, C.	396.00
Wells, E.	396.00
Wulfers, E.	396.00
York, R.	396.00
Ainsworth, E.	396.00
Alleman, H.	396.00
Alsops, J.	396.00
Brown, C.	132.00
Buckley, I.	396.00
Clegg, J.	396.00
Dempster, R.	396.00
Ellefson, M.	396.00
Ginder, C.	396.00
Hancock, R.	132.00
Hoffman, C.	264.00
Matson, C.	396.00
Nims, J.	396.00
Novak, F.	396.00
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	396.00
Walther, R.	396.00
Weaver, J.	264.00
Wick, J.	396.00
Wilson, C.	396.00
Water, S.	396.00
Conover, J.	264.00
Jopson, R.	396.00
Johnson, J. D.	132.00
Kraus, C.	396.00
Maxwell, I.	132.00
Owens, A.	396.00
Pendley, C.	132.00
Quilland, L.	396.00
Total for This Page— Total taxable wages paid	$15,048.00

83 Page No. 3

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended Sept. 30, 1941.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Sapper, C.	396.00
Stockdale, Jr., F.	396.00
Tuinstra, K.	396.00
Watson, T.	396.00
Devine, E.	—0—
Rowles, G.	—0—
Scott, G.	—0—
Smits, A.	—0—
Wagner, R.	—0—
Unknown Helpers	13,201.00
Total for This Page—Total taxable wages paid	$14,785.00

84 **Supplemental Employer's Tax Return.**

Under Federal Insurance Contributions Act.

Form SS-1 a (Rev. Nov. 1940)
Treasury Department
Internal Revenue Service

Read Instructions Carefully

This Copy Must Be Kept By Employer.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A		
2.	Total taxable wages Paid (from Item 21)		$39,917.00
	Employers' Tax.		
3.	1% of Item 2	$399.17	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 399.17
	Employees' Tax.		
6.	1% of Item 2	$399.17	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 399.17
9.	Total tax (total of Items 5 and 8)		$ 798.34

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplement Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Dec. 31, 1941.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

---

15. Total pages of return, including continuation sheets attached—3.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, (Yes or No) attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19) Dollars	Cents
Balch, J...	264	00
Bauholzer, J.	396	—
Blumenauer, H.	396	—
Barush, J.	396	—
Bossert, G.	396	—
Brenizer, J.	396	—
Christner, G.	—0—	
Clifford, M.	396	—
Cordes, N.	396	—
Crowcroft, G. A.	396	—
Dean, C. L.	396	—
Durham, E.	396	—
Eggers, C.	396	—
Elliston, A.	264	—
Finkbeiner, W.	396	—
Foote, D.	624	—
Garrison, J.	—0—	
Graham, J.	396	—
Graham, M.	264	—
Grays, Robert	—0—	
Hallberg, C.	264	—
Harburda, L.	264	—
Hart, E.	396	—
Hart, S. S.	396	—
Hiesley, W.	396	—
Hutchins, H. W.	396	—
Kaub, E.	264	—
Lange, W.	528	—
Lichtenberg, J.	—0—	
Morgan, H.	396	—
Oakley, J.	—0—	
Osborn, L.	396	—
Parks, W.	132	—
Parsley, M. R.	396	—
Petke, W.	396	—
Preece, W.	396	—
Rizer, J.	396	—
Total for This Page— Total taxable wages paid	$11,976	—

21. Total for This Return—
Total taxable wages paid $39,917 00 } This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter.....

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

85 Page No. 2

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised Nov. 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Type or print in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1 a.

Date Quarter Ended Dec. 31, 1941.

A Summary Sheet Must Accompany This Form.
Read Instructions Carefully.

(Left hand margin) >If employee's account number is unknown, follow Item 17 of Instructions of reverse of Form ss-1 a.<

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Rounds, W. M.	396.00
Scharch, R.	396.00
Schreffler, H.	264.00
Stevens, H. C.	624.00
Strass, W.	396.00
Suess, G.	396.00
Suess, L.	396.00
Telford, J.	—0—
Weigand, C.	132.00
Wells, E.	396.00
Wulfers, E.	396.00
York, R.	396.00
Ainsworth, E.	264.00
Alleman, M.	264.00
Alsops, J.	264.00
Brown, C.	—0—
Buckley, I.	396.00
Clegg, J.	396.00
Dempster, R.	396.00
Ellefson, M.	396.00
Ginder, C.	396.00
Hancock, H.	—0—
Hoffman, C.	—0—
Matson, C.	396.00
Nims, J.	396.00
Novak, F.	396.00
Nunis, A.	396.00
Pembroke, R.	396.00
Scott, R.	396.00
Walther, R.	396.00
Weaver, J.	—0—
Wick, J.	396.00
Wilson, C.	132.00
Cater, S.	396.00
Conover, J.	—0—
Jepson, R.	396.00
Johnson, J. D.	396.00
Kraus, C.	396.00
Maxwell, I.	132.00
Owens, A.	132.00
Pendley, C.	396.00
Quilland, L.	264.00
Total for This Page— Total taxable wages paid.	$12,768.00

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

Continuation Sheet.

Form SS-1 b
Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended Dec. 31, 1941.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Sapper, C.	396.00
Stockdale, Jr., F.	396.00
Tuinstra, K.	396.00
Watson, T.	396.00
Devine, E.	396.00
Rowles, C.	396.00
Scott, G.	264.00
Smits, A.	396.00
Wagner, E.	396.00
Unknown Helpers	11,741.00
Total for This Page— Total taxable wages paid	$15,173.00

87

EXHIBIT "I".

Employer's Tax Return.
Under Federal Insurance Contributions Act.

Supplemental Return.

Form SS-1 a (Rev. Nov. 1940) — Read Instructions Carefully
Treasury Department
Internal Revenue Service

Supplemental Return.

This Copy Must Be Kept By Employer.

Mar. 31st, 1942.

This copy, together with a copy of each related schedule or statement which the employer is required to keep, must be carefully preserved by the employer at his principal place of business, and should at all times be available for inspection by officers of the Bureau of Internal Revenue. See Par. I of General Instructions on back of this copy.

1.	Number of employees listed in Schedule A		
2.	Total taxable wages Paid (from Item 21)		$44,137.00
	Employers' Tax.		
3.	1% of Item 2	$441.37	
4.	Credit or adjustment	$	
	(Must be explained. See instructions)		
5.	Total employers' tax		$ 441.37
	Employees' Tax.		
6.	1% of Item 2	$441.37	
7.	Credit or adjustment	$	
	(Must be explained. See instructions)		
8.	Total employees' tax		$ 441.37
9.	Total tax (total of Items 5 and 8)		$ 882.74

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

10. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

Supplemental Return

Do Not Detach at This Line.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

(List all employees to whom taxable wages were paid during the quarter).

Identification No. .....

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

13. Type or print in this space employer's name, address of principal place of business, and identification number. (See Item 13 of Instructions.)

---

14. Date quarter ended Mar. 31st, 1942.

If there is not enough space to list all employees below, use Schedule A continuation sheets (Form SS-1 b). Each such sheet must show a page number beginning with number 2. (See instructions on back of continuation sheet.)

---

15. Total pages of return, including continuation sheets attached—2.

16. Has a change of ownership, or other transfer, of the business taken place during the quarter? No. If so, (Yes or No)
attach the statement called for in Item 16 of Instructions.

(Left hand margin) >If any employee's account number is unknown, follow Item 17 of instructions<.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)	
	Dollars	Cents
Bauholzer, J.	155	—
Blumenauer, H.	465	—
Barush, J.	465	—
Bossert, G.	465	—
Brenizer, J.	465	—
Clifford, M.	465	—
Cordes, H.	465	—
Crowcroft, G. A.	465	—
Dean, C. L.	465	—
Durham, E.	465	—
Eggers, C.	465	—
Elliston, A.	465	—
Finkbeiner, W.	465	—
Foote, D.	930	—
Graham, J.	465	—
Hart, S. S.	465	—
Hutchins, H. W.	465	—
Lange, W.	465	—
Morgan, H.	930	—
Osborn, L.	465	—
Parsley, M. R.	465	—
Preece, W.	465	—
Rizer, J.	465	—
Rounds, W. M.	465	—
Schreffler, H.	465	—
Stevens, H. C.	775	—
Strass, W.	465	—
Suess, G.	465	—
Suess, L.	465	—
Wells, E.	465	—
Wulfers, E.	465	—
York, R.	465	—
Ainsworth, E.	465	—
Buckley, I.	465	—
Clegg, J.	465	—
Dempster, R.	465	—
Ellefson, M.	465	—
Total for this Page— Total taxable wages paid	$18,135	00

21. Total for This Return—
Total taxable wages paid $44,137 00 } This total must be the same as Item 2 above.

(Do not use this space)

22. Number of taxable employees on pay roll covering last pay period (or pay periods) of quarter

This form must be filed with U. S. Collector of Internal Revenue on or before the last day of the first month following the close of the quarter year.

Schedule A—Employer's Report of Taxable Wages Paid to Each Employee.

88 Page No. 2

Continuation Sheet

Form SS-1 b

Treasury Department
Internal Revenue Service
(Revised January 1940)

Greyvan Lines, Inc.,
1338 S. Michigan Ave.,
Chicago, Illinois.

Enter in this space employer's name, address of principal place of business, and identification number exactly as shown in Items 10 and 13 on Form SS-1a.

Date Quarter Ended March 31st, 1942.

Read Instructions Carefully.

Name of Employee (Type or print) (18)	Taxable Wages Paid Under Federal Insurance Contributions Act (19)
Ginder, C.	465.00
Matson, C.	465.00
Nimz, J.	310.00
Novak, F.	465.00
Nunis, A.	465.00
Pembroke, R.	465.00
Scott, R.	465.00
Walther, R.	465.00
Wick, J.	465.00
Cater, S.	465.00
Jepson, R.	465.00
Johnson, J. D.	465.00
Kraus, C.	465.00
Pendley, C.	465.00
Quelland, L.	310.00
Sapper, C.	465.00
Stockdale, Jr., F.	465.00
Tuinstra, K.	465.00
Watson, P.	465.00
Devine, E.	465.00
Rowles, C.	465.00
Scott, G.	465.00
Smits, A.	465.00
Wagner, R.	465.00
Hayford, R.	465.00
Kunz, A.	155.00
Keytunen, W.	310.00
Campbell, D.	465.00
Davis, R. S.	155.00
Moorehouse, J.	310.00
Weinz, A.	310.00
Unknown Helpers	12,982.00
Total for this Page— Total taxable wages paid	$26,002.00

89 And on the same day, to wit, on the 1st day of February, 1944, being one of the days of the regular December, 1943, term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

90 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10—43-C-276)

ORDER.

On motion of Carter H. Harrison, defendant in the above entitled cases, by his attorney, J. Albert Woll, United States Attorney,

It Is Hereby Ordered, Adjudged, And Decreed that the above entitled cases be consolidated for trial under the consolidated number 43-C-10.

Enter:

Campbell.

Dated at Chicago, Illinois, this 1st day of February, 1944.

145 And afterwards on, to wit, the 12th day of February, 1945 there was filed in the Clerk's office of said Court a certain Transcript Of Testimony In Two (2) Volumes in words and figures following, to wit:

148 IN THE DISTRICT COURT OF THE UNITED STATES

(Caption—43-C-10)

Be It Remembered, That Heretofore. On To-Wit on the 1st day of February, A. D. 1944, the same being one of the judicial days of the United States District Court, this cause came on for hearing before the Honorable William J. Campbell, one of the judges of said court, without a jury, and thereupon the following proceedings were had.

Counsel Present:

Messrs. Wilbur E. Benoy, and George T. Christie, Appeared for the Plaintiff.

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago, by

Mr. John D. Stephan; Assistant United States District Attorney, and

149 Mr. Homer R. Miller, Special Assistant to Attorney General of the United States of America, Appeared for the Defendant.

The Court: You may proceed.

Mr. Benoy: If your Honor please, I would anticipate a rather full statement of the case might enable your Honor to understand the case better.

The Court: We already have had a trial conference on this matter and unless there is something specific you want to call my attention to I don't think you need to waste time with any further statements. I have reviewed my notes on the pre-trial conference and I have the issues clearly in mind. The question here, as I recall it if the Social Security tax paid under protest.

Mr. Benoy: That is right.

The Court: And the tax was paid with respect to certain owner operators and the question to determine is whether

they were owner operators or employees, is that the situation?

Mr. Benoy: That is right.

The Court: Is that the way you understand it?

Mr. Miller: Yes.

The Court: Let us proceed.

150 Mr. Benoy: Our point is we are not employers. We have no payroll.

The Court: Yes, that matter was discussed at the pre-conference, and I have reviewed my notes and I will hear your evidence. Call your first witness.

Mr. Benoy: You may take the stand, Mr. Bossert.

GEORGE E. BOSSERT, called as a witness on behalf of the Plaintiff, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please.

A. George E. Bossert.

Q. What is your business and place of residence?

A. 1547 East 33rd Street, Minneapolis, Minnesota.

The Court: Minneapolis, Minnesota?

A. Minneapolis, Minnesota, yes.

Mr. Benoy: Q. Are you now connected with the Greyvan Lines?

A. No, sir.

Q. What company are you now connected with?

A. North American Van Lines.

Q. Were you connected with the Greyvan Lines, Inc.?

151 A. Yes, sir.

Q. On what date did you sever that connection?

A. October 27, 1943.

Q. Prior to that time how long was your connection with the Greyvan Lines?

A. I started to work in January, some time in 1941.

Q. Did you work some time before you signed a contract?

A. Yes, sir.

Q. And what were you doing during that interim of time?

A. I was travelling; moving furniture as a student.

Q. What do you mean by "student"?

A. In order to operate long distance moving van men have to know certain things.

Mr. Stephan: Your Honor, I am going to object to what he was doing, not what his conclusions are, but what was he necessarily doing.

The Court: Well, we will get it out as quick as possible. We have no jury here. Tell me what you did as a student.

A. I was learning the fundamentals of furniture moving and the proper procedure to take in handling the various papers necessary for the shipments.

152 The Court: Proceed counsel.

Mr. Benoy: Q. Did that include loading and unloading?

A. Yes, sir.

Q. What allowances were you made during the time you were a student?

A. We were paid $3.00 a day subsistence during that period.

Mr. Benoy: I might say, your Honor, I should have said before, these men I am now offering are truck men themselves whom I am offering to establish the way—

The Court: I understand. Go ahead.

Mr. Benoy: Q. Now I hand you what is labeled as Greyvan Lines, Truckmen's Agreement and ask you whether or not your signature is attached to that document?

A. Yes, sir.

Q. And when did you sign that document?

A. On February 3, 1941.

Q. And now does that date show your connection with the Greyvan Lines on the contract?

A. Yes, sir.

The Court: You call that a Truckmen's Agreement?

Mr. Benoy: It is designated as Greyvan Lines Truckmen's Agreement.

The Court: Truckmen's Agreement.

153 Mr. Benoy: I have a copy here for your Honor.

The Court: No. I just want the right terminology. All right, go ahead.

Mr. Benoy: I don't care to offer this. I am going to offer others, follow it through the whole set of papers.

Mr. Stephan: Why don't you offer them as you go along so that you can substitute photostatic copies later for the record.

The Court: Well, you go ahead.

Mr. Benoy: Thank you very much.

Q. Now, after you signed this agreement tell the Court what was done in order to carry out the agreement.

A. Before I had signed the agreement I had made arrangements to purchase my own unit and when I signed the agreement I went to Minneapolis, Minnesota, to get the required equipment and I came back to Chicago to start work.

Q. What did you do in connection with it?

A. I purchased the tractor and trailer with pads and the equipment to handle it.

Q. How did you use the tractor, with the trailer?

A. It was used exclusively under the contract for the moving of furniture.

Q. Now, how did you get notification that a load 154 of furniture was ready for you?

A. The Greyvan Lines maintained offices in the principal cities in thirty-eight eastern states and these offices, sales offices and agents as you might say for the company and they give you papers on each shipment, but in those towns we get the papers directly from the office and if we are in towns where there are no offices we are advised by the Western Union.

Q. Now, do these papers show you where the load is to go?

A. Yes, sir.

Q. Its destination, in other words?

A. Yes, sir.

Q. And does it show what the load is?

A. Yes, sir.

Q. Does it show you where it is to go?

A. Yes, sir.

Q. Does it show you whether or not it is a C.O.D. shipment or a shipment in the ordinary way?

A. Yes, sir.

Q. And does it show you whether or not you are obliged to collect the freight tariff, or whether you may extend credit for it?

A. Yes, sir, it does.

Q. Now, where you collect the C.O.D. shipments 155 and the freight, I am directing my questions to the time involved from 1937 to the first three months of 1942.

A. Well, I was responsible for it until I turned it over to the Western Union or had a cashier's check made out and mailed it into the company.

Q. And how soon did you make those remittances?

A. As soon as possible.

Q. Now, what did you do in order to deliver the load?

A. Well, the loads are varying in destination. We usually try to conform to the shipper's desires in the time of arrival on account of the distance, if it was more convenient for them to take an extra day, why, we usually took our time and delivered it a little later than we would ordinarily.

Q. Now, when you got to the destination, what did you do with the actual delivery of the goods?

A. Well, I hired my own help, located the address, contacted the shippers, unloaded the goods and if it was a collect job I collected before I unloaded and if there was a bill, first I would sign the freight bills necessary to sign.

Q. Before you picked up the goods, did you make an inventory of them?

156 A. Yes, sir.

Q. What did you do with that inventory when you delivered the goods?

A. Well, upon receipt of the goods we would note the condition of each article, whether it was marred, scratched or in bad order, just generally abused, had the shipper sign it, if that was true of the furniture at that time, and upon delivering it we checked off the items, off the inventory sheet and noted if there was any damage. If there was no damage, why the shipper would sign the inventory sheet that everything had been received in good order.

The Court: The shipper?

A. Yes, sir.

Mr. Benoy: There are shippers at both ends, you see.

The Court: Oh.

Mr. Benoy: Q. You shipped the goods to the shipper himself at destination, do you?

A. Yes, sir.

Q. In other words moving them from city to city, household goods?

A. Yes, sir, exclusively.

Q. That is what you were chiefly concerned with?

A. Yes, sir.

157 Q. Now, suppose those household goods were marred, scratched, whose responsibility would that be?

A. Any damage during the transportation of the furniture I was perfectly responsible for it. If I could make arrangements with the shipper to pay the damages, there,

I would pay for them. If I couldn't do something necessary, we would have to go through the office. If we didn't know what the damages were, the company would settle and then pay the damages and charge it to my account.

Q. Now, with respect to your own compensation for moving the load, how was that taken care of?

A. Well, the shipments were divided on a 50-50 basis. I was to get 50 per cent of the drayage and certain other compensation for packing and a Porto robe service. There were several other articles, if the charges on the sheet or papers didn't carry a complete bill, all the things that had to be done and they would go into the office and they would credit it to my account and at the end of the month I would get a statement complete with everything on it, what I hauled and what damages had been taken out and everything was evened up and I got the balance.

Q. How was that paid to you then?

A. By check.

158 Q. Throughout the month were you entitled to certain advances as against your account?

A. Yes, sir, on each form we were allowed, what is commonly called, "an advance check." I was to defray all current expenses, loading and unloading for our personal requirements.

Q. Was it possible for you to buy any supplies through the Greyvan Lines?

A. Yes, sir, we took advantage of the company's fleet discounts. We used to buy a lot of necessary equipment and things for our trucks through the company.

Q. Did you pay for that?

A. Not in cash. It was charged to our account and paid for and eventually at the end of the month it was paid for.

Q. What did you do about gasoline and credit cards?

A. Gasoline was almost invariably purchased on credit cards. The purchase price was charged to our account.

Q. Do you mean by that you purchased it from the Greyvan Lines itself?

A. No, sir, we had—I think there was 21 different brands of gasoline we could use, had charge accounts and could use 21 different kinds.

159 Q. Is it a fact that Greyvan Lines had secured for you credit lines for that many companies?

A. Yes, sir.

Q. While you had the card itself, you could present those cards and have the gasoline charged?

A. That is right.

Q. And that they were collected at the end of the month and charged back to your account?

A. Yes, sir.

Q. Now, what was the occasion for those credit cards?

A. Well, sometimes we would be gone two or three months at a stretch without getting in contact, direct contact with the home office. We don't want to carry a lot of cash with us. We would be an invitation for every thug in the country to hold us up.

Q. That is the reason a credit card was arranged, is that correct?

A. Yes, sir.

Q. Now, what was done with reference to your insurance, take liability and property damage on the equipment itself?

A. My insurance was carried under a blanket policy by the company, and at the end of the month I was 160 charged. There was a small turn-over and each month there was a certain percentage taken off of my statement.

Q. What did you do with reference to collision, fire and theft insurance on your own equipment?

A. That was at the same point checked. I found that using the fleet policy, that you see the paper for many times, that is an individual policy, it was much cheaper and I just put it through then under the blanket policy.

Q. And how was that paid for?

A. That was paid in the same manner as the other.

Q. In other words charged against your account at the end of the month?

A. Yes, sir, that is right.

Q. Did you have the option of providing your own collision, fire and theft insurance?

A. Yes, sir.

Q. Now, these collections that you would make, how much would they run to at times?

A. Well, it depended on the size of the load, the destination of the load. It varied anywhere from $25.00 up to $1500.00.

Q. And that you mean was the charge to the shipper for the transportation?

161 A. Yes, sir.

Q. And you had to collect that, did you?

A. Yes, sir. It was a C. O. D. job.

Q. Well, a C. O. D. job, was this a straight tariff or which was it?

A. Well, you see a C. O. D. job is a *billed job*, a billed job. You would have it billed and payment by some companies for which the shipper asked the C. O. D. job, usually was just private firms.

Q. What is meant you collected freight charges on delivery?

A. Yes, sir.

Q. Wouldn't mean it is collected on as to the value of the goods then?

A. No, sir.

Q. That was another thing?

A. Yes, sir.

Q. Your share of the transportation charges would average how much?

A. Fifty per cent.

Q. Well, I mean how much would it run on an average per month?

A. Well, as to all expenses, my equipment expenses, my help, my own expenses vary from month to month, but I think on an average it would be from four to

162 five hundred dollars a month.

Q. Now that would be the net profit to you?

A. Yes, sir, that is my labor.

Q. Was there any advantage in making an arrangement on contracts as above and beyond an employment on a wage?

A. Definitely, there was.

Q. In other words you netted much more than you would had you been on a strict employment basis?

A. Yes, sir.

Q. What was the fact about the possibility of yourself driving your own equipment, you could save expenses on it?

A. Well, I had to pay for it, naturally I wasn't going to take it out and run it and wreck it. I took good care of it, watched it, and turned the corners here and there,

where I could save a dollar here and a dollar there, whereas if a man was driving for somebody else he hasn't the personal interest in it.

Q. Assuming you are out with a load of household goods from New York City to West Virginia, you were going over that part of Pennylvania where the turnpike is, could you use that turnpike if you wanted to?

163 A. That was entirely up to me.

Q. And if you use it, then what?

A. I pay $7.50 toll on it.

Q. Do you have a choice for the different routes to go on?

A. Oh, yes, sir.

Q. You had the chief dispatcher at the home office, did you not?

A. Yes, sir.

Q. What was your occasion to contact him?

A. Well, something would come up and I was in a hurry for something like that I would call him on the phone, if it was pertaining to business because I felt it was company's business and I would reverse the charges to him, and if it was my own personal business I would pay for them myself.

Q. Do you wear uniforms, I see your uniform?

A. Yes, sir.

Q. Your own uniforms?

A. Yes, sir.

Q. Were you required by the organization to wear uniforms?

A. No, sir.

Q. Was this your own choice?

A. Yes, sir.

164 Q. You said a while ago you were away from Chicago as much as a month and a half, did you not?

A. Well sometimes would be longer than that, two or three months, sometimes.

Q. How many miles would you cover in that time?

A. Well, I think it is safe to say we travelled twelve thousand miles a month.

Q. Was there anybody on the road at all supervising your activities?

A. No, sir.

Q. They were all regulated by your own personal conduct?

A. Yes, sir.

Q. You have seen this manual, have you not?

A. Yes, sir.

Q. When did you first see it?

A. Before I went on the road with the service contact in the Chicago office I came down to Minneapolis.

Q. Now while you were a student before you signed up this contract, what use did you make of that?

A. Well, I read it through. There were several things in it which helped any one doing work a little easier, more as a reference book than anything else.

Q. Now, after you became a truckman and you had
165 signed this contract, were you ever instructed by the company to follow those rules?

A. No, sir.

Q. You used your own judgment as to whether you would follow them or not?

A. Yes, sir.

Q. I am just wondering whether you carried the book with you on the trips?

A. I usually had it, but half the time I didn't know where it was.

Q. Did you use or do you use, what is known as a sleeper's cab?

A. Yes, sir.

Q. That was a cab in which you slept, provided with a bunk for you to sleep in, wasn't it?

A. Yes, sir.

Q. Were you required to use the sleeper's cab?

A. No, sir.

Q. Did you use it for your own reason?

A. Well, I slept in it most of the time. I had something on, I felt my own responsibility and I had them in my possession and I didn't want anything to happen so I usually stayed with the load when I had a load on.

Q. Now you, of course, came in contact with house-
166 wives?

A. Yes, sir.

Q. Was that most of your work?

A. Yes, sir.

Q. In other words you had to do the loading and handling of the goods to satisfy her?

A. That is right.

Mr. Benoy: I think you may cross examine.

Mr. Miller: With respect to the offer of this stipulation in evidence.

Mr. Benoy: Yes, I was going to do it later.

The Court: There has been a stipulation entered into in pursuance to the pre-trial conference?

Mr. Stephan: Yes, your Honor.

The Court: Been filed, has it?

Mr. Stephan: We will file it now, your Honor.

The Court: Let the same be filed and the record will be considered by the Court as evidence in this case. You may proceed.

Cross-Examination by Mr. Stephan.

Q. Mr. Bossert, you state you commenced to work for the Greyvan Lines Company about the 3rd of January, 1941. What was your line of work before that time?

167 A. I operated five trucks on my own in Minneapolis under contract.

Q. For how long?

A. About twelve years.

Q. And perhaps, or rather previous to that time had you been engaged in the trucking business?

A. Yes, sir.

Q. When you applied for work with the Greyvan Lines people did you fill out an application of some sort?

A. I wrote in in reference to putting a unit on, yes, sir.

Q. Did you state to the Greyvan people in your application that you had had considerable experience, about twelve years of trucking experience?

A. Yes, sir.

Q. And they required you, however, to make your student training course that you spoke of, is that so?

A. Yes, sir.

Q. Did you have any conversation with the Greyvan Lines people about your experience as to whether it was necessary for you to take this student training course?

A. Yes, I did.

Q. And did they tell you it was still necessary for

168 you to take it?

A. Yes, sir, they said in order to handle the job to my advantage that it would be advisable to take it.

Q. On one of their trucks?

A. Yes, sir.

Q. Now, when you first commenced working for the Greyvan Lines, it is true, is it not, that you leased or rented a trailer from the Greyvan Lines people?

A. Yes, sir.

Q. And who did you purchase that trailer from, do you recall?

A. The trailer I bought right from the Greyvan Lines Company.

Q. Did you pay the Greyvan Lines Company for it?

A. Yes, sir.

Q. Was it financed through the Greyvan Lines Company?

A. I don't believe there was any financing on it, because it wasn't a new trailer. It was an old trailer.

Q. How did you pay for it, each month a certain amount deducted from your check?

A. Yes, sir.

Q. Was there any option in that contract to pur-
169 chase this trailer, that is the Greyvan Lines would have the first option to purchase that trailer?

A. Yes, sir, there was.

Q. Do you recall who paid for the painting of that trailer in the first instance?

A. It was the Greyvan Lines that painted it. It had to be the Greyvan Lines' colors.

Q. When you purchased it from them it was painted?

A. Yes, sir.

Q. Was there a regulation or rule of the company you knew that it required the drivers to make a cash deposit of $250.00?

A. We did make a deposit of $250.00, a cash deposit to cover any damage that we might do in the event we left the company.

Q. Did you make such a deposit in cash?

A. Yes, sir.

Q. Did you make it in cash?

A. No, sir. I didn't, it was taken out, $25.00 a month.

Q. Were you accepted by the Greyvan Lines for employment the first time you applied to them?

A. Yes, sir, after a period of correspondence which took about three weeks.

179 Q. Well, isn't it true that after the first application a physical examination was required, and there was some question as to your weight?

A. Well, that was in order to comply with the Interstate Commerce Commission regulation.

Q. Were you underweight when you first applied?

A. Yes, sir, I still am.

Q. Did they subsequently or later put you to work despite that fact?

A. Yes, sir.

Q. Did you use any other equipment of any nature belonging to the Greyvan Lines other than the trailer which you leased from them when you first started working for them?

A. No, sir, the trailer and company's equipment is all I leased from them.

Q. How about clothes cabinets and things of that nature?

A. They are part of the equipment of the van.

Q. And you stated, did you not, that equipment and things of that nature might be purchased through the Greyvan Lines and charged to your account?

A. Yes, sir.

Q. When you say "charged to your account" as a matter of fact you don't know whether that is so, do

171 you, as a matter of fact, whether it actually occurred, a certain amount was deducted from your check each month?

A. No, sir, it was charged to my account, because I have itemized statements at the end of each month. Each month I have checked them, each item.

Q. You never actually paid the Greyvan Lines any money? Previous to that statement, money you owed them?

A. No, I can't pay cash for them at the start. I wanted to check it over, I wanted a set of spark plugs and I have got to pay cash for them.

Q. No, no, you never actually paid any money to Greyvan Lines itself for any purchases you might have made under their name?

A. I don't recall any specific instance of it, no. I don't.

Q. Did the company furnish you with a list of the weighing stations throughout the country?

A. No book, but with a list, a kind of list.

Q. Were you instructed to go to a particular weighing station in that locality?

A. No.

Q. Well, was that list of weighing stations a list that was set out by the Interstate Commerce?

A. I believe that is a little blue book.

172 Q You could use any other station you wanted to?

A. Yes, sir, because it provided if we were satisfied with the weighmaster.

Q. Now you spoke of some twenty or twenty one cards which you carried for the purchase of gasoline and oil. To whom were those cards made out to?

A. They were made out to the Greyvan Lines, Incorporated, but on the face of them they were stamped delivered to the unit, Mr. So and So, whatever the unit might have.

Q. Well, now, as a matter of fact, these cards simply said "Greyvan Lines" and gave the address of the Greyvan Lines and they had a number on them, didn't they?

A. Yes, sir.

Q. Corresponding to the number on your truck?

A. That is right.

Q. There was no such caption "delivered" or anything like that?

A. Yes, sir, delivered to me, the number happened to be 286.

Q. During the time that you worked for the Greyvan Lines there was a lettering on the side of your truck?

A. Yes, sir, the necessary permit for the various 173 states.

Q. As indicated by the lettering and the weight and capacity of that truck?

A. Yes, sir.

Q. Now, was that lettering put on at the time you went to work for the Greyvan Lines?

A. Yes, sir.

Q. Did it have your name or address lettered on any part of the truck or trailer?

A. No, but I had Mac on the tractor.

Q. That is a name.

A. That is my nickname for the truck, yes, sir.

Q. Do you know of any state law requiring the lettering of the owner's name and address?

A. No, sir.

Q. On a truck?

A. No, sir.

Q. Did you have any conversation or instructions from the Greyvan Lines?

A. No, sir.

Q. Now, as to your shipping instructions you spoke about, I think you testified here were given to you, or wired to you from some of the officials of the Greyvan Lines, from whom did those instructions come?

174 A. Usually they came from our dispatcher.

Q. And the dispatcher handled that all the time you were an employee there, when you were employed there?

A. Yes, sir, except for one brief period he was on a vacation.

Q. Now those instructions specified the date on which you were to pick up the order, the date on which it was to be delivered, did they not?

A. Sometimes the delivery date would be on it. It was usually left to the shipper when they wanted their furniture, if it was convenient on the dates mentioned.

Q. Well, the date of the pickup was on there, wasn't it?

A. Yes, sir.

Q. Well, it is fair to state then you could not pick up the load of furniture unless you received instructions from Mr. Prante to pick it up on such date; that is correct, is it not?

A. No, sir, it isn't. I have picked up loads two or three days before they were scheduled to be moved.

Q. Well, how do you know about these loads?

A. We got papers in New York City probably to bring them down here.

Q. There were some prior instructions from somebody?

175 A. There was information that the load was there, yes, sir.

Q. Let me put it this way: You had no authority to pick up the shipment without instructions from some official of the Greyvan Lines, did you?

A. No.

Q. Would it be possible to distinguish the tractor and and trailer?

A. Yes, sir.

Q. How do you do that?

A. My unit had 286 on the cab and 286 on the trailer. The company owned had one number for the trailer and one number for the tractor.

Q. Other than that number there is no other way to distinguish the owner operated unit from the company owned?

A. Well, generally in appearance the owner operated equipment usually would be in better shape.

Q. Would the casual observer be able to know?

A. No, I don't believe they would be.

Q. Now, as a matter of fact all papers which you received in relation to shipments were made out in Grayvan Lines' name, were they not?

A. Yes, sir.

Q. Nothing on those papers to indicate who were
176 the owners or operators of that unit, was there?

A. No, sir.

Q. Were you permitted to solicit any new business for the company?

A. Yes, sir.

Q. Were you paid commission for that?

A. Yes, sir, although I never turned one in myself.

Q. Could you solicit new business and load it on your truck and haul it to its destination without instructions from the company?

A. No, sir.

Q. Now you spoke of damage to a shipment and your responsibility. Isn't it a fact that regulations of the Interstate Commerce Commission provide for a specific amount for allowance for damages, I believe about 30 cents a hundred weight?

A. That is the released value of the shipment.

Q. To the shipper?

A. The released value that relates to the goods, not the value of the bond, but 30 cents unless it is otherwise stipulated.

Q. Well, that would seem you would only be liable for 30 cents a hundred weight unless some additional insurance was placed on that load?

A. Yes, sir.

177 Q. Did you ever personally pay any shipper for any damage you done?

A. Yes, sir.

Q. All your help you employed, did you have some times a helper with you on the truck?

A. No, sir.

Q. Have you employed one for the period when you needed one?

A. Yes, sir.

Q. Did the company inquire or require you, rather, to employ union helpers?

A. It wasn't the company's requirement, it was the union requirement.

Q. But you had to employ union help?

A. Yes, we had to use union help, that is, whenever available; sometimes we would be in a small town and they wouldn't know what a union was and you couldn't get any union help.

Q. You were required by your agreement with the union?

A. Yes, sir, I don't know whether it was the company's requirement; we all had to belong to it in order to unload in certain towns.

Q. Your expense of operating the truck and paying your helpers, is it true you had to make a report to the 178 company at certain intervals?

A. Only in the event that some of the expenses incurred were part of the company's expenses, such as tariffs necessary to travel through Missouri or something of that nature they paid, it is true.

Q. Don't you have to make a report then as to the amount you paid your helper?

A. No, sir.

Q. Your expenses for gas and oil?

A. No, sir.

Q. You made no report at any time while you were in their employ; now, you stated that you were not required to wear a uniform, that is a Greyvan Lines' uniform?

A. Yes, sir.

Q. Well, however, you wore it, did you not?

A. Yes, sir.

Q. Do you remember where you purchased that?

A. Greenberg's, 2540 South State Street, no, 540 South State Street.

Q. Who sent you down there?

A. I believe some of the drivers said I could get it down there.

Q. Did you pay for that uniform yourself?

A. Yes, sir.

179 Q. You didn't have it charged to the company?

A. No, sir, I didn't.

Q. Those uniforms were made up in stock sizes?

A. Some of them are and sometimes I had them specially made.

Q. Now in connection with the insurance you spoke about, it is true, is it not, you carried liability and property damage, fire and theft on your unit, did you not?

A. Yes, sir.

Q. Did you pay for that yourself?

A. It was taken from my check.

Q. And paid for by the company?

A. Yes, sir.

Q. Wasn't it a cargo insurance that was carried on your unit also?

A. Yes, sir.

Q. You paid for that insurance?

A. What insurance?

Q. Now, you paid for the portion of the cargo insurance?

A. Yes, that I have never been able to straighten out in my mind myself, but I believe that I did.

Q. Do you recollect anything in the contract that you had with the Greyvan Lines as to that provision?

180 A. No, sir, I don't.

Q. Is this a copy of the Truckmen's Manual that was issued to you?

A. Yes, sir.

Q. During your training course you took—

The Court: You better have that marked with a number for the record.

Mr. Stephan: Mark this Government's Exhibit 1 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 1 for identification.)

The Court: Let the record show the witness looked at Government's Exhibit 1 in answer to the previous question.

Mr. Stephan: Q. Do you remember reading that provision in your book pertaining to uniforms?

A. No, sir, I don't remember that.

Q. Do you ever recall reading section 10 on page 2?

A. I believe I did read it; yes.

Mr. Benoy. May I have an exception to any question along this line? I will develop it later on a question of law.

The Court: If you have an objection, voice it on the question and I will rule on it.

181 Mr. Benoy: All right, thank you, go ahead.

Mr. Stephan: Q. These uniforms, were they all of a uniform type in character?

A. Yes, sir.

Q. Do you recall what color trousers they wore?

A. Most of them got a light bluish grey color.

Q. What color was the blouse?

A. The same color.

Q. Well, isn't it true that all the men purchased the uniforms and wore black ties?

A. No, sir, it isn't.

Q. After reading this paragraph 10 which I showed you, doesn't that indicate to you that the drivers were required to purchase the uniforms?

A. No, I asked about them when I started. I wasn't overburdened with cash after having paid for my equipment and I didn't want to spend too much money for work clothes. Previously I had been engaged in the brick business and I wore overalls and you can't deliver Mrs. Astor's furniture in overalls.

Q. Did you buy a complete uniform, belt and shoes?

A. No, sir, not the belt or the shoes.

Mr. Stephan: I wish to introduce this as Government's Exhibit 1 in evidence.

The Court: You better wait until the Government's
182 case. This is the Plaintiff's case.

Mr. Stephan: Well, I want to introduce this on cross examination.

The Court: Have they changed the laws for the introduction of exhibits before your case comes on?

Mr. Stephan: Well, I think I can.

The Court: You can't in this Court. I don't know what the others are doing. I never heard of that before. It has been identified. When your case comes on I will let you introduce it with your evidence.

Mr. Stephan: That will be satisfactory.

Q. Are you familiar with the bonus provisions of the contract you had with Greyvan Lines?

A. Yes, sir.

Q. It is true, is it not, the bonus provisions provide that you get as high as three per cent bonus, did it not?

A. Yes, sir.

Q. That consisted of one-half of one per cent for mechanical and physical maintenance; one per cent for satisfactory service performed and one per cent for personal appearance and mental attitude?

A. Yes, sir.

Q. A total of one-half of one per cent if you earned the two and a half per cent for three consecutive
183 months?

A. That is right.

The Court: Q. Is that in the contract, Mr. Stephan?

Mr. Stephan: Yes, your Honor.

Q. With reference to the first provision as to mechanical and physical maintenance, did the company inspect the mechanical or physical condition of your truck or trailer by intervals?

A. No, sir.

Q. Did they at any time?

A. I believe one man did walk through and inspect the truck one day just shortly before I left Greyvan Lines and asked me if I had all the equipment necessary; outside of that there was never any inspection made.

Q. At that time did he inspect both the tractor and the trailer?

A. No, sir; just went through the trailer. I think that was more because of the fact he seen I had my own equipment.

Q. Was there any inspectors on the road points, at the time of loading to check the total points as to the second part of the bonus for the service performed?

A. No, sir. Occasionally a man would request, or the shipper would come out and see that the things were handled to their satisfaction.

184 Q. Was there any inspection made as to your personal appearance?

A. No, sir.

Q. Did you earn this three per cent bonus at any time?

A. I never lost it.

Q. Were you required to buy certain plates at the time, state license plates at the time you went to work?

A. Yes, the state law required you to buy a vehicle state license. In Minnesota you have to put the license on it before you can take it out.

Q. What state did you buy your plates in?

A. In Minnesota.

Q. Can the company furnish the plates in other states in which you were obliged to travel through?

A. Yes, sir.

Q. You didn't sign any application for those plates, did you?

A. Yes, sir.

Q. Weren't those plates taken out by the Greyvan Lines?

A. Yes, sir, I had to sign an application for them I would judge a thousand miles before we came to the person that could sign for them. I signed for them as
185 agent for the Greyvan Lines.

Q. Well, as a matter of fact applications were made for them at the Greyvan Lines office here in Chicago, were they not?

A. No, sir, a lot of plates, we made application for ours right in the state.

Q. There were some plates furnished you by the Greyvan Lines?

A. Yes, sir, some of them.

Q. You didn't sign any applications for those plates, did you?

A. No, sir.

Q. Now going back a moment to your helpers you employed, did you make out any reports for paying the Social Security tax on those helpers?

A. Yes, sir.

Q. Now, Mr. Bossert, you devoted your full time to this job, did you not?

A. Yes, sir.

Q. And under the terms of your contract with the Greyvan Lines you were required to work for them and no one else?

A. No, sir. I could take time off at any time I so desired and do whatever I felt I wanted to do at the time.
186 Q. Did you ever do that?

A. Yes, sir, I have.

Q. Could you use that tractor?

A. No, sir, I couldn't use the trailer when I was leasing the trailer from them, but I could use the tractor.

Q. That tractor and trailer you could use for no other work than the Greyvan Lines?

A. No, sir.

Mr. Stephan: That is all.

The Court: Any re-direct examination.

Re-Direct Examination by Mr. Benoy.

Q. You were asked about the release of the shipment could you make any claim for marred or scratched furniture?

A. No, sir, there was none made that I know of.

Q. That does not come under that?

A. No, sir.

Q. That is one of the other districts, is that right?

A. That is right.

Q. The registration plates you bought in Minnesota you paid for from your own pocket, did you not?

187 A. Yes, sir.

Q. And the company furnished you the plates that you required to travel through other states?

A. Yes, sir.

Q. But you provided your own registration plates, that is, state registration?

A. Yes, sir.

Q. Now you said you devoted full time, except such time as you wanted to take off, did you have any time to devote to anything else?

A. Very seldom, unless I took a vacation or did a little other work for recreation.

Q. How much of an investment did you put in this business?

A. My tractor cost me $3,076.41, and I believe the trailer about $1800.00.

Q. And all of your help that you had, either your own help on your own equipment was help furnished for loading and unloading the furniture, and you hired them, paid them and fired them, didn't you?

A. Yes, sir.

Q. And you were responsible for the loss of any revenue collected, were you not, until it come into the company's hands?

A. Yes, sir.

188 Q. That was true with reference to your responsibility for damage to the shipment, was it not?

A. Yes, sir.

Mr. Benoy: That is all.

The Court: I would like to ask a few questions:

Q. Now you talked on cross examination mostly with reference to this trailer, that is what you were asked about?

A. Yes, sir.

Q. I understand you first leased the trailer from the Greyvan Lines and later made arrangements with them by paying so much a month?

A. Yes, sir.

Q. How about the tractor, whose was that?

A. That tractor?

Q. That you leased?

A. The tractor, I purchased it in Minneapolis from the International Harvester Company.

Q. You went up there after you finished your work as a student and used their equipment?

A. Yes, sir.

Q. You bought a tractor from the International Harvester Company?

A. Yes, sir.

Q. Yourself?

A. Yes, sir.

189 Q. And paid for it yourself?

A. Yes, sir.

Q. The Greyvan Lines did not do that?

A. Not a thing.

Q. You owned the tractor entirely?

A. Yes, sir.

Q. Now, as to the tractor and the trailer, did the State of Minnesota or any other state issue a certificate of ownership on that like they do on pleasure automobiles?

A. The State of Minnesota issued a little card; it is a certificate of title.

Q. Yes, a certificate of title, yes; what does it say?

A. The make of the truck and my name under it.

The Court: I beg your pardon?

A. The make of the truck with my name on the certificate.

Q. For the tractor?

A. Yes, sir.

Q. How about the trailer, is one issued for that or not?

A. When I first started I pulled the company's trailer

and at that time the certificate of title was in their name, but when I purchased it it was in my name.

190 Q. What happened to your equipment when you left the company? I understand you recently left the Greyvan Lines.

A. I sold it.

Q. And when was it you left, in October, 1943?

A. That is right.

Q. What did you do with the equipment, I mean, when you left the company?

A. I sold the equipment to another driver.

Q. You sold the equipment to another driver?

A. Yes, sir. He wrecked his unit and he wanted a new one.

Q. Who was the driver you sold it to?

A. Bernard Hannenberger.

Q. Trailer and tractor?

A. Yes, sir.

Q. Bernard what?

A. Hannenberger.

Q. How do you spell that?

A. H-a-n-n-e-n-b-e-r-g-e-r.

Q. Is Hannenberger still working for the Greyvan Lines?

A. I don't know, your Honor.

Q. He was at the time a driver for the Greyvan Lines?

A. Yes, sir.

191 Q. Now this contract you had with the Greyvan Company, as I understand the way you explain it, they check the rates for the drayage on which the shipper had to pay for this?

A. Yes, sir, set up by the Interstate Commerce Commission.

Q. Tariffs set up by the Interstate Commerce Commission?

A. Yes, sir.

Q. Then you got one half of that and they got the other half, is that right?

A. Yes, sir.

Q. Now, then, with your half of it you bought the tractor and trailer and furnished your own service and furnished the service of the helper?

A. Yes, sir.

Q. And maintained the tractor and trailer mechanically, and paid for the license on it?

A. Yes, sir.

Q. That is the original state licenses?

A. That is right.

Q. And paid for the gasoline?

A. Yes, sir.

Q. And the other cost of maintenance?

A. Yes, sir.

192 What does the company do for its 50 per cent?

A. They maintain whatever officials were necessary, well, I don't know what else to take up the business.

Q. They solicited the business?

A. They solicited the business, yes, sir.

Q. Their salesmen and office force, of course, were necessary and incident to that?

A. Yes, sir, they furnished the office force.

Q. In so far as the shipment is concerned they bore no other expenses for that?

A. Well, except the expenses of the license plates and the permits necessary.

Q. That you testified to the other day in response to questions yourself?

A. Yes, sir.

Q. The cost of transportation was yours.

A. Yes, sir.

Q. And for that you got one half of the drayage fee?

A. Yes, sir.

Q. They got the other half of the drayage fee for soliciting the business?

A. That is right.

Q. That was substantially the contract?

A. Yes, sir.

193 The Court: Very well, that is all I have to ask. You may step down.

(Witness excused.)

MAX R. PARSLEY, called as a witness by the Plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy:

Q. Your name, please?
A. Max R. Parsley.
The Court: How do you spell your last name?
A. P-a-r-s-l-e-y-.
Q. P-a-r-s-l-e-y?
A. Yes, sir.
Mr. Benoy: Q. Where do you live, Mr. Parsley?
A. 1518 Draper Street, Indianapolis, Indiana.
Q. How long have you had the connection with the Greyvan Lines?
A. Since September, 1938, I believe September 1st is the correct date.
Q. Had you been in the trucking business before that time?
A. Yes. sir.
The Court: Let me interrupt. Are you bringing 194 out some additional facts?
Mr. Benoy: Maybe a little evidence. I want to put in with this witness with respect to the instructions and the papers, *et cetera.*
The Court: Can you not stipulate so that we don't have to waste time here. You know it is not necessary when the government was willing to stipulate. They could possibly put on four or five witnesses to corroborate the testimony the same as the other drivers. Can't you save time?
Mr. Miller: We have no objection, your Honor, to doing that.
The Court: I don't see any sense putting on four or five others to repeat what Mr. Bossert's testimony has been. I think it has been very fully covered. What is the purpose of it?
Mr. Benoy: They are the same, your Honor.
The Court: How many have you here ready to testify?
Mr. Benoy: I have five here.
The Court: Will the government agree that if the witnesses were put on it would be cumulative in so far as the general purport?

Mr. Miller: Your Honor, we have one witness, one driver we desire to use ourselves, the testimony of that driver which is considerably at variance with the testimony
195 of the witness.

The Court: This particular witness.

Mr. Miller: The witness who has just testified.

The Court: The five will testify to the same thing if they are asked the same questions.

Mr. Miller: I just want to call your attention to that.

The Court: Well, I would anticipate if your witnesses would testify a little differently, at least the plaintiff's wouldn't bother me, but if this is cumulative let the record show you have five witnesses who will testify substantially the same as Mr. Bossert and let the record show that the Court does not desire to hear any cumulative testimony. If you have anything else other than that to cover by their testimony, all right. If you want to cover it by this witness, proceed, but don't repeat the testimony.

Mr. Benoy: I am going to offer the examples of showing the routine in which these shipments are handled in the main.

The Court: You mean more detailed than what Mr. Bossert testified to?

Mr. Benoy: I am going to offer this line of papers.

The Court: Of the actual shipments?

Mr. Benoy: Yes, of the actual shipments as they
196 are handled.

The Court: Very well, proceed. These shipments by this witness, made by this witness.

Mr. Benoy: They have particular reference. I mean, all of them will be the same as far as that is concerned.

The Court: Very well.

Mr. Benoy: If your Honor please, I am offering Plaintiff's Exhibit 1.

The Court: You better use letters. They used numbers, make it A.

Mr. Benoy: Plaintiff's Exhibit A which is the Truckmen's Agreement.

The Court: Any objection by the government?

Mr. Miller: I think I want to see it. All right.

Mr. Benoy: I shall leave a substitute, your Honor, a copy for the original.

The Court: All right, what is this?

Mr. Benoy: That is just the same; they are identical.

The Court: Very well.

Mr. Benoy: There are two or three hundred of them identical.

The Court: There being no objection they may be received in evidence with leave given to the Plaintiff to
197 substitute photostatic copies thereof. Let this be received in evidence.

Mr. Miller: No objection.

The Court: Very well.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit A and is in words and figures as follows, to-wit:)

198 Mr. Benoy: Mark this Plaintiff's Exhibit B.

(Whereupon the document was marked as requested, Plaintiff's Exhibit B for identification.)

Mr. Benoy: Q. I am handing you what has been marked as Plaintiff's Exhibit B, and ask you whether that is a sample of one of the instructions to Truckmen you received in connection with notifying you?

A. Yes, sir.

The Court: Are you offering that in evidence? Any objection?

Mr. Miller: No objection.

The Court: It may be received and marked as Plaintiff's Exhibit B.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit B and is in words and figures as follows, to-wit:)

199 Mr. Benoy: Mark this Plaintiff's Exhibit C for identification.

(Thereupon the document was marked as requested, Plaintiff's Exhibit C for identification.)

Mr. Benoy: Q. I am handing you Plaintiff's Exhibit C and ask you whether that illustrates the method in which you handled a bill of lading?

A. Yes, sir.

Mr. Benoy: I am offering in evidence Plaintiff's Exhibit C.

The Court: Any objection?

Mr. Miller: No objection.

The Court: It may be received and marked.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit C and is in words and figures as follows, to-wit:)

200 Mr. Benoy: Mark this Plaintiff's Exhibit D.

(Thereupon the document was marked as requested, Plaintiff's Exhibit D, for identification.)

Mr. Benoy: Q. I am handing you Plaintiff's Exhibit D and ask you if that illustrates the method and manner you received your payments?

A. Yes, sir.

Q. The one on top is the voucher, is it not?

A. Yes, sir.

Q. Which indicates to you the amount of the particular voucher coming to you and below there is a subtraction on two note payments, less two note payments?

A. Yes, sir.

Q. Totalling $146.17; those are payments which you have authorized Greyvan Lines, Inc. to pay from your account and charge it to your account, is that correct?

A. That is right.

Q. And then the showing below at the bottom is a draft covering that particular payment?

A. Yes, sir.

Q. That is the way that comes to you, is it?

A. Yes, sir.

Mr. Benoy: I offer it in evidence.

201 Mr. Miller: May I see it, please. No objection.

The Court: It may be received and marked Plaintiff's Exhibit D.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit D and is in words and figures as follows, to-wit:)

202 The Witness: May I make a statement pertaining to that?

The Court: Your counsel will take care of that.

Mr. Benoy: Mark this Exhibit E.

(Thereupon the document was marked as requested, Plaintiff's Exhibit E for identification.)

Mr. Benoy: Q. This Plaintiff's Exhibit E which I hand you is that exemplary of the monthly settlement statement that you received?

A. Yes, sir.

Q. And that in one column is known as the base load?

A. Yes, sir.

Q. What does that carry?

A. It carries the transportation and shows what the shipper has paid.

Q. In other words, that is the tariff, is it?

A. That is right. The next column is the percentage—my percentage to me.

Q. And you have certain advances that are charged to you there, don't you?

A. Yes, sir.

Q. what are those?

A. Those are expense money the company gave me prior to going out on the road so that I would have sufficient money to pay all the incidental expenses that 203 occur in the transporting of these goods.

Q. That represents a certain proportion of the amount you will receive on that particular load?

A. Not necessarily.

Q. But it never exceeds that amount, does it?

A. It has at times.

Q. Then you get what you call a special advance, don't you?

A. Yes, sir.

Q. Now, where did you get these advances?

A. At the various offices, company owned offices, or if there is no company owned office, we don't wire home for money which is hard to do sometimes in order to avoid delay we wire the company at Chicago.

Q. Whose expense then?

A. At our expense.

Q. And then those advances, plus any authorizations such as charges for a particular thing are put into the "amount charged" column?

A. Yes, sir.

Q. And the difference at the end of the month is stricken off the advances for what you owe?

A. Yes, sir.

204 Q. And you are paid the difference on the amount coming to you?

A. Yes, sir.

Q. In this particular case you had a net balance of $244.41, did you not?

A. Yes, sir.

Mr. Benoy: Mark this Plaintiff's Exhibit F for identification.

(Thereupon the document was marked as requested Plaintiff's Exhibit F for identification.)

Mr. Benoy: Q. However, before arriving at that, they charged you with a deposit of $250.00, haven't they?

A. Yes, sir.

Q. That made your total due that month $705.41 altogether?

A. Yes, sir.

Q. Now this Exhibit F then shows the payment of that amount and the manner of it?

A. Yes, sir.

Q. At the top is the voucher showing $705.41 in the center list your deduction of two note payments amounting to $146.17, which leaves you a balance of $599.24 paid
205 by the check shown on Exhibit E, does it?

A. $559.24.

Q. $559.24?

A. Yes, sir.

Mr. Benoy: Mark this, and it is offered in evidence.

Mr. Miller: No objection.

The Court: F is received in evidence.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit F and is in words and figures as follows, to-wit):

206 Mr. Benoy: Mark this Plaintiff's Exhibit G.

(Thereupon the document was marked as requested, Plaintiff's Exhibit G for identification.)

Mr. Benoy: Q. Plaintiff's Exhibit G for identification which you have in your hand shows the September statement does it not?

A. Yes, sir.

Q. With a net due you of $955.41?

A. Yes, sir.

Q. And there were deductions, so you got on that the total amount shown on Plaintiff's Exhibit F, is that correct?

A. Yes, sir.

Q. In other words, Plaintiff's Exhibit F paid you for the amount due shown on Plaintiff's Exhibit G?

A. Yes, sir.

Mr. Benoy: Mark this as Plaintiff's Exhibit H for identification.

(Thereupon the document was marked as requested, Plaintiff's Exhibit H for identification.)

Mr. Benoy: Q. I hand you Plaintiff's Exhibit H and

ask you whether or not that shows—is that one of your bonus payments that was taken care of?

A. Yes, sir.

207 Q. And that was for the month of—dated October 21, 1941, the check payable October 27, 1941, is that correct?

A. That is for the month of September.

Q. That is $86.16, is the bonus due that month?

A. Yes, sir.

Mr. Benoy: We offer Plaintiff's Exhibit H in evidence.

The Court: Any objection?

Mr. Miller: No objection.

The Court: H may be received.

(Thereupon the document so offered in evidence was marked and received in evidence as Plaintiff's Exhibit H and is in words and figures as follows, to-wit):

208 Mr. Benoy. Q. Now I hand you what purports to be a statement of your running account from January, 1941 to April, 1943, showing total payments due you of $28715.27, during that time; is that a correct statement of your account?

A. I couldn't make the statement, yes or no, on that.

Q. That was prepared by others than yourself, was it?

A. Yes, sir.

Q. In that connection, Mr. Parsley, is there a profit due you, operating under the contract over and above the amount that would be paid to you as wages during the same time?

A. I believe there is.

Mr. Stephan: Your Honor, I will object to that conclusion. He wasn't working for wages.

The Court: Well, I will let him state his opinion. It may stand.

Mr. Benoy: The answer is "yes", is it not?

A. Yes, sir.

The Court: The answer may stand.

Mr. Benoy: Q. Can you estimate what proportion of your average weekly draw is profit to you after payment of all expenses, the average monthly settlement, can

209 you state to the Court what portion of the average monthly payment?

The Court: Monthly or weekly?

Mr. Benoy: Monthly payments to you after the payment of all expenses is profit?

A. About fifty per cent.
The Court: How much in money?
A. Approximately $250 to $300 a month.
Mr. Benoy: You may examine.

Cross-Examination by Mr. Miller.

Q. Mr. Parsley, how long have you been working for the Greyvan Lines under contract?
A. I believe it was in September of the year 1938.
Q. Will you state—or are you still in the employ of the Greyvan Lines?
A. Well, I consider myself my own employer.
Q. Are you still under contract with the Greyvan Lines?
A. Yes, sir.
Q. Now, calling your attention to this so-called bonus statement, did you receive those statements every month?
A. Yes, sir.
210 The Court: Refer to the Exhibit numbers if there are any.
Mr. Miller: I don't believe I have that.
The Court: What is the exhibit number?
Mr. Miller: What is the last exhibit?
The Court: Exhibit H; very well.
Mr. Miller: Q. Did you receive those statements each month?
A. Yes, sir.
Q. And was there any time that you did not receive the full amount of the bonus?
A. Yes, sir.
Q. And was there usually certain comments attached to the certificate, the statement you received concerning the computation of the bonus?
A. The majority of times there was, yes, sir.
Q. And do you know on what basis your personal appearance and mental attitude—
A. I couldn't say just offhand.
Q. Do you know who made up these joint statements, Exhibit H?
A. There were different men made them up on different occasions. They were made by different men at different times.
Q. They were made up by the Greyvan Lines, Incorporated, were they not?

211 A. Yes, sir.

Q. And concerning the mechanical and physical maintenance of your trucks, do you know who made the examination on that?

A. There was never none made that I know of.

Q. Do you know on what basis that was made up?

A. By the comments of the customers.

Q. It was turned in to the Greyvan Lines?

A. By the customers, yes, sir.

Q. Now, calling your attention to Plaintiff's Exhibit A, the Truckmen's Agreement, was that the only written agreement you had with the company?

A. Yes, sir.

Q. And was that agreement signed when you first went to work for the company?

A. Yes, sir.

Q. And you never had any other agreement, plan or writing concerning the course of your relations with the company?

A. No, sir.

Q. And did you perform any work or service for any other company?

A. No, sir.

Q. For the Greyvan Lines during the time you were 212 under contract?

A. No, sir.

Q. Did you own your own tractor and truck?

A. Tractor and trailer.

Q. Tractor and trailer?

A. Yes, sir.

Q. Were the statement of your account between yourself and the Greyvan Lines made mouthly?

A. Yes, sir.

Q. Each month?

A. Yes, sir.

Q. Calling your attention to Plaintiff's Exhibit B, Instructions to Truckmen, when did you receive those instructions concerning the time you were to pick up the load and the time you were to deliver it?

A. They usually got the date that we were to pick it up but not the delivery date.

Q. That was on the shipment time, wasn't it?

A. Occasionally that was when the people wanted it.

Q. Most of your hauling is household furniture?

A. Most of it.
Q. You did haul some office furniture?
A. Yes, sir.
Mr. Miller: I think that is all.
The Court: If you have any re-direct examination, as you say only one question let us finish with this witness, then the drivers can go back to work. There is no use keeping them here all the time.
Mr. Benoy: I don't think of anything more just now, your Honor.
The Court: The rest of your testimony will be cumulative?
Mr. Benoy: Yes.
The Court: I don't want any repetition. Very well. Step down.
We will recess at this time until ten o'clock tomorrow morning.

(Thereupon a recess was taken to Wednesday, February 2nd, A.D. 1944 at ten o'clock A.M.)

216 In the District Court of the United States
(Caption)

Before:

Hon. William J. Campbell, Judge.

Tuesday, February 2, 1943. 10:00 o'clock A. M.

Court met pursuant to adjournment.

Counsel Present:

Messrs. Wilbur E. Benoy and George T. Christie, Appeared for Plaintiff;

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago, by

Mr. John D. Stephan, Assistant United States District Attorney, and

Mr. Homer R. Miller, Special Assistant Attorney General of the United States of America, Appeared for the Defendant.

(Thereupon the following proceedings were had.)

217 Mr. Benoy: Before I proceed with the witness I wish to offer in evidence an agreed statement of facts which has been stipulated; shall I read it?

The Court: What do you mean, this stipulation?

Mr. Benoy: That is right.

The Court: No, no, it has been filed in evidence. It was filed yesterday.

Mr. Benoy: All right. Mr. Shearer.

WALTER W. SHEARER, called as a witness on behalf of the Plaintiff, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please.

A. Walter W. Shearer.

The Court: How do you spell your last name?

A. S-h-e-a-r-e-r.

Mr. Benoy: Q. What connection have you with the Greyvan Lines, Incorporated?

A. Treasurer.

Q. How long have you been connected with the Greyvan Lines?

A. Since January 1, 1934.

218 Q. What is your particular line of work?

A. All accounting, financial.

Q. And does that have to do with the settlement with the truckmen under the contracts?

A. Yes, sir.

Q. What records do you keep in your office with respect to the truckmen?

A. As far as the accounting statements—

Q. I didn't get it.

A. The monthly statement.

Q. What is shown on that statement?

A. That statement shows all the loads that were transported by the contract truck men. The advances he received against such loads. The amount of earnings. His portion of the contract, his portion of the transportation charges; the charge for public liability and property damage. Insurance claims that may be charged against his account or any bills that we may pay for him which he has previously authorized.

Q. I am handing you Plaintiff's Exhibit E and ask you whether or not you recognize that as one of the statements, for which particular month?

A. This is a statement of M. R. Parsley; van 200 for the month of June, 1941.

Q. Now, is M. R. Parsley one of the truckmen who
219 has contracts with the company?

A. He is.

Q. And is that the contract, Exhibit A, which has already been offered in evidence?

A. It is.

Q. How many of these contract truckmen, were there separate ones now covering the year 1937 to and including the first three months of 1942 which is the period covered in this suit; approximately how many were there?

A. I would say between fifty and sixty.

Mr. Benoy: Now, if your Honor please, we have in the courtroom the contracts of each of the several truckmen; all of which are similar to or identical with, I should say, Exhibit number 1 which has been offered in evidence with the exception—

The Court: You mean Exhibit A? Keep your record straight.

Mr. Benoy: With the exception of the tariff attached, either through some changes between the year 1937—went through some changes, rather, between the year 1937 and 1943—in 1942, rather, that is, there was a revision upward and those tariffs, I take it are immaterial except as affording an example to your Honor of what they are; how-
220 ever, as I say all those contracts are in the courtroom and they may be examined by counsel for the government. I take it, it is not necessary to offer each one of them in evidence.

The Court: No, I don't think so, either.

Mr. Miller: That is satisfactory, Your Honor.

The Court: Very well, one is sufficient as a specimen.

Mr. Benoy: That is what I had in mind.

The Court: That is sufficient.

Mr. Benoy: Q. Now, Mr. Shearer, I ask you to take in your hand Exhibit F which is attached to the agreed statement of facts and having reference to the exhibit and particularly the names that are copied under the name of employee in that column; who are those respective names that you find in the column, take the first sheet?

The Court: Isn't the stipulation enough for that?

Mr. Benoy: No, if your Honor please, I submitted a stipulation—

The Court: This is a stipulation.

Mr. Benoy: Yes. I submitted a stipulation covering practically this entire case, but the government would not execute it.

The Court: What is this stipulation, let me see—

221 Mr. Benoy: In other words it is part of the denial that these men that appear are employees, not contract truckmen, that is what I am getting at.

The Court: What have you stipulated to here?

Mr. Miller: The stipulation, our difficulty in getting together with Mr. Benoy is this. Mr. Benoy—we don't want to stipulate ourselves out of Court very bad on the main fact in this case. The stipulation doesn't cover the real question at issue. We have been unable to agree with Mr. Benoy on those exact facts.

The Court: As to whether or not these people who are listed here as truckmen. Why do you take up my time with that? Can't you use the records and find out and then stipulate?

Mr. Miller: We admit that these men are truckmen, there is no issue there.

The Court: Well, as to whether they are employees or contractors, that is for me to determine.

Mr. Benoy: That is for you to determine.

The Court: What do you want; that is what I am talking about now.

Mr. Benoy: I want him to tell us if these particular men listed in these exhibits F, G, H and I, are what you charge, having contracts with the Grayvan Lines—

222 The Court: Hasn't the Government agreed on that?

Mr. Miller: Yes, your Honor, I thought the stipulation covered that.

Mr. Benoy: No, you deny we have contracts.

Mr. Miller: We do not. I think—I don't think we made any such denial as that.

The Court: What does the stipulation say on that? Have you a copy?

Mr. Miller: Yes, your Honor.

The Court: If you haven't the stipulation—

Mr. Miller: Paragraph 5, I think paragraph 5 covers it, Exhibits F, G, H and I were concerned with respect—

Mr. Benoy: It is paragraph 4.

Mr. Miller: Then 6 I think probably—

The Court: I have read 6.

Mr. Benoy: Paragraph 6 is the only one in which they approved it.

Mr. Miller: You say they are truckmen who owned and operated the trucks.

Mr. Benoy: My question to the witness is whether or not these identical men who operated these trucks under the truckmen's contract exemplification of which is Exhibit A?

Mr. Miller: We have no objection to that question.

The Court: I indicated in the pre-trial conference
223 that I wanted you people to look at the records of the plaintiff corporation and to stipulate any of these facts or as many of these facts as possible and save me my time. I don't know why one of your agents couldn't look through the books and ascertain it, as to whether these people are the people whose name is on the contract and then stipulate to it and save the Court's time.

Mr. Miller: We are perfectly willing—

The Court: Why wasn't it done? You were directed to do it on the pre-trial of this case.

Mr. Stephan: We felt we were willing to stipulate and will right now if—

The Court: Do so. What other facts do you want stipulated?

Mr. Benoy: I have here a stipulation and I submitted it to the government and about one third of it they would sign and the other two-thirds was not signed.

Mr. Miller: I might say, your Honor, we submitted one back to him and he doesn't want to agree to the facts that we want here.

The Court: What further facts do you want with reference to the schedules for the stipulation? Has the government looked at this?

224 Mr. Benoy: That is right.

The Court: Are the truckmen with whom the plaintiff corporation contracts similar to Exhibit A?

Mr. Miller: That is right.

The Court: What else do you want stipulated?

Mr. Benoy: That will cover it.

The Court: What else does this witness have to testify to?

Mr. Benoy: He will give, as I take it, a little review here of this. There are several things he has to testify to.

Now, these persons who are listed on the exhibit referred to are residents of various states are they not?

A. That is correct.

Q. They are not all residents of one particular locality, are they?

A. That is right.

Q. Now, have you any records in your office whatsoever from which the blank shown on the exhibit under the heading "Plaintiff's Account number" could be ascertained; in other words, do your records show the Social Security number of any of these truckmen or the employees of any of these truckmen?

A. With a few exceptions, no.

Q. Well, what are the exceptions?

225 A. Well, they have been—I can't say definitely, there may have been some one of these operators who may have had a social security number.

Q. As a general rule did the truckman have employers social security number?

A. That I do not know.

Q. Did some of them have?

A. Some of them did, yes.

Q. Was there any report made to you by the truckmen of the wages that they paid for assistants to them in either the operation of the truck or the loading or unloading of household goods at the point of origin or at any time?

A. Not that I remember.

Q. Now, I suppose the government also will concede, I think it is not stipulated, that Exhibit A which is the Unemployment tax and Exhibit B, Exhibit C and Exhibit D is made up in the same manner?

The Court: That is the exhibit attached to the stipulation?

Mr. Benoy: Yes. And from the same source, I think the same data which they secured from the examination.

Mr. Stephan: We will so stipulate, your Honor.

The Court: Let the record so show.

226 Mr. Benoy: Which are the sheets you have designated and identified. Exemplifying as Plaintiff's Exhibit E, taken from your books, the sheets from the Deputy Collector, from the Internal Revenue Office, seems to make up the supplemental return?

A. Yes, sir.

Q. Did the company have anything to do with reference

to the hiring of these truckmen of any employees, either as assistants in operating the trucks on the highway or in loading and unloading the goods?

A. No, not in so far as employment is concerned. The truckman employed his own help.

Q. That means the company did not do it?

A. That is right.

Q. Did he have the option of loading or unloading his own goods or hiring it done?

A. Yes, sir.

Q. There are certain matters in the schedules in which the truckmen were paid 100 per cent of what he either made or paid for the handling of those goods; will you tell the Court what they are?

A. Well, these were covered by the schedule in the truckmen's agreement; there is an unusual attention to that—I wouldn't say unusual items, but they are covered by the tariff and they are such as a packing charge
227 which is seventy per cent. There is an advance which is considered as an advance which he may pay and charge the shipper. He is given naturally, reimbursement in the full amount of that expenditure like in the case of a hoisting job of a piano, a piano carried—hoisted or carried up, if he performs that service he is entitled, according to the contract, to 100 per cent of the tariff.

Mr. Benoy: Q. Where is the loading and unloading done?

A. At the various shippers' residences, office buildings, and to office transfers, sometimes to and from or from a warehouse or delivering to a warehouse in a distant city.

Q. Do you have on organization throughout the thirty states and in the District of Columbia in which you operate?

A. We have an organization of company owned branches and sales agencies throughout the various points in thirty eight states; however, all points through which we make pickups, or have truckmen pick up and deliver shipments are not covered by that type of our organization.

Q. Now, do you have a sales organization?

A. We do.

Q. What is the purpose of it?

228 A. The purpose of a sales organization is to solicit business, estimate the cubic capacity, so that the dis-

patcher may proceed to dispatch the required space for transporting.

Q. Now are those repeat orders, one each, one single order, how about those?

A. Every shipper seems to know about movement of household goods. Once you move the shipper you may not move that shipper again for one year, or two years or three years; in other words, it is a different business. It is not the same as a general trucking business where, if an order is written up or again where they automatically call you in every day to pick up so many thousands pounds at a place; the business is more scattered.

Q. And what is the nature of the men which you must have to take care of the moving of those goods of the character of those goods, what is the character of the men you must have?

A. We must have a man that is of good character. He must be able to meet the housewife and use the proper psychology under certain instances. He must naturally be a man who knows how to pack and deliver furniture properly.

Q. I call your Honor's attention, even to the fact
229 that we operate as a common carrier under the jurisdiction of the Interstate Commerce Commission; this was not admitted by counsel; so we have to prove that fact.

Mr. Miller: No, your Honor.

The Court: Well, did you request them to admit it?

Mr. Benoy: Yes, I did.

Mr. Miller: The difficulty is the manner in which they used to tie it in with other facts here.

The Court: Well, I think—which counsel is to blame, I don't know, I think both sides failed in the duty imposed upon them by the court and that is why this testimony is so repetitious, and with the exception of some parts of it it should take only about thirty minutes. A lot of this matter could have been stipulated to in the first instance, and an investigation properly made by the Treasury agents. I think it is disgraceful to spend this time with half the number of judges we should have at the present time, and with the number of cases that have to be continued. This morning I put over two draft cases which were set here and I have to sit here and listen to this repetitious testimony that could have been stipulated to, and I want the record to show those facts that counsel for both sides

have utterly failed in the obligation imposed on them
230 by the court at the pre-trial conference.

Mr. Benoy: I am willing to submit whatever agreed statement was proposed or any counter-proposal they made.

The Court: For that purpose I direct at this time, at the time of filing of briefs I want filed also—what action the court may take on that proposal or counter-proposal which counsel has submitted and resubmitted in accordance with the Court's order at the pre-trial conference. I want to know how these pre-trial orders are followed out. I am not taking my time on pre-trial conferences merely for amusement.

Mr. Benoy: May I answer your Honor, we carried out your order and submitted twelve or fourteen truckmen for the government to interview as suggested and requested.

The Court: I want to see the stipulation that was submitted exactly to that. I want that submitted with the briefs.

Is the government now stipulating that they operate under a permit from the Interstate Commerce Commission?

Mr. Stephan: Yes, we do.

The Court: Let the record show the stipulation.

231 Mr. Benoy: I don't see the necessity of offering the Regulation of the Interstate Commerce Commission which I assume if counsel for either side desires to rely on that portion of it they may put it in and your Honor will take judicial notice of it.

The Court: I will.

Mr. Benoy: I will go through here as quickly as I can. Now there are some unknown helpers listed on page 24 of the stipulation. Will you tell how those were—I think it is stipulated how they were arrived at, but do you have any records in your possession which show the names or addresses of these unknown helpers which are listed on page 24 as dummies, where is 24 or 26? You may be able to refer to the Exhibit. Here it is on page 26, the heading at the top is headed: "Dummy".

The Witness: I have no record of those at all.

Q. Now, which particular persons was that alleged assessment with respect to?

A. To the temporary help that was hired by the contract truckman to help load and unload.

Mr. Benoy: Has your Honor found it?

The Court: No, I just want the sub-head.

Mr. Benoy: Page 26.

The Court: Which exhibit?

232 Mr. Benoy: Exhibit G.

The Court: All right, I have it, go ahead.

Mr. Benoy: Q. In other words you have no records in your office whatsoever with respect to that?

A. No, sir.

Q. How was it estimated?

A. I believe that it was estimated on the basis of the amount for the truckmen.

Mr. Stephan: Your Honor, I think that point is in the stipulation. I think it was estimated.

Mr. Benoy: I think it is fairly well covered.

The Court: Very well.

Mr. Benoy: That is covered.

The Court: I will read the stipulation after I have the evidence.

Mr. Stephan: Paragraph A and B.

The Court: Don't cover any points that are in the stipulation.

Mr. Benoy: All right.

Q. There are certain collections made by these truckmen, are there?

A. Yes, sir.

Q. And how are they remitted to the home office?

A. Either turned into the branches or sent by mail, wire or in some cases postal money order; sometimes

233 [redacted] money by registered mail.

Q. Whose responsibility is it for that money until it reaches the possession of the Greyvan Lines?

A. The truckmen.

Q. May that money be turned over to agents in certain cities that are above listed?

A. With only one or two exceptions, no.

Q. Are these truckmen placed under a Fidelity bond?

A. Yes, sir.

Q. What is the deposit of $250.00 required for?

A. That is a deposit required under the contract which permits you to pay truckmen at the end of the month without taking into consideration any claims that may be pending and also carried until the final settlement of the account in the case of a truckman leaving the company.

Q. And part of the orders for payment on this, is that held for security on those?

A. Sir?

Q. Is that held for security on orders, upon the orders of the truckmen to pay on his account?

A. That amount might become a charge against the truckman's money for a claim on the monthly statement, which would have been rendered.

Mr. Benoy: Now, gentlemen, is it also stipulated
234 so far as the claim is concerned that it relates only to the—what we have established here to be the contract truckmen, that is, it does not relate to any of the regular employees of the company?

Mr. Miller: When you say "regular employees" you mean the truckmen for the company, when the company owns the tractors and trailers; let me understand your question.

Mr. Benoy: The company also has certain moving vans upon which it operates, does it not?

A. That is right.

Q. It has its own employees on that equipment?

A. That is true, the company.

Mr. Benoy: So that I am asking a stipulation here that this claim is not—does not cover any of the company's regular employed help, but pertains only to the contract truckmen and the employees of the contract truckmen whom he paid and discharged.

The Court: It is so stipulated.

Mr. Miller: It is so stipulated.

The Court: You may proceed.

Mr. Benoy: Q. The company operates its revenue under tariffs that are filed with the Interstate Commerce Commission?

A. That is true.

235 Q. And as to those tariffs, the truckmen collect the amount and remit to the Greyvan Lines, is that correct?

A. Yes.

Q. And to these contract truckmen do you pay them any wage whatever?

Mr. Miller: I object to that, your Honor, as his conclusion.

The Court: Well, he may state the payments he made. What you mean is whether he made any payments in

addition to those called for in the contract. I have a copy of the contract. Is that your question?

Mr. Benoy: Yes; are they limited to the contract payments?

A. They are.

Q. And in the method and manner you have described?

A. Yes, sir.

Mr. Benoy: You may take the witness.

Cross-Examination by Mr. Miller.

Q. How long has your company held a certificate of public convenience and necessity from the Interstate Commerce Commission?

A. The certificate was actually issued, I believe it
236 was September 18, 1942; however, we were operating under a docket number prior to the determination by the Interstate Commerce Commission; that docket number being our Grandfather application for rights.

Q. Did you attend a hearing before the Interstate Commerce Commission?

A. Yes, sir.

Q. Now did you have anything to do with the preparation of a manual for truckmen that has been marked Government's Exhibit A—Government's Exhibit 1, I believe?

A. I may have had the one section regarding the collections.

Q. Are you familiar with that volume?

A. I am familiar with the book. I would say I know there is such a book.

Q. That is the volume?

A. That is the volume.

Q. And was that manual issued to each one of the contract truckmen at the beginning of their employment or at the beginning of their contract with you?

A. No because the manual wasn't issued when some of the boy's contracts started with the company.

Q. When was that manual first put out?

A. I believe it was in 1940.

237 Q. In 1940?

A. Yes, sir.

Q. And prior to that time did you have a similar manual to this?

A. No, sir.

Q. Did you issue any type of manual to your truckmen prior to that time?

A. There was no manual issued.

Q. Did you issue any bulletins with the same instructions?

A. There were such bulletins issued on—

Q. Do you have those bulletins with you?

A. No, sir.

Q. But beginning with 1940 this manual was issued to each one of the truckmen?

A. Yes, sir.

Q. Was that done at the beginning of the operation of the trucks then?

A. I told you there were some contracts issued before the manual, so that they could not have had them.

Q. Well, now let us assume truckmen had started under the contract with your company in 1938, did you issue him a manual?

A. He was given a manual, yes, sir.

Q. Then each one of your truckmen got a manual?

238 A. That is true.

Q. You charged each one of these truckmen $2.50 for the manual, didn't you?

A. Not to my knowledge.

Q. Would you say you did or didn't?

A. I don't remember that we did.

Q. Now, with reference to the computation of this Social Security tax, you were in charge of the negotiations with the representatives of the Collector's office concerning that matter, were you not?

A. Yes, sir.

Q. And did you agree to the computations by the Collectors as to the amounts that were determined by them?

A. I agreed that the figures they have set out is a fair figure but acknowledged no liability for the company.

Q. In other words you agreed that if the truckmen were employees, the figures that they used were correct?

A. That is correct.

Q. So that there is no controversy about the amount of the wages mentioned by the collector?

A. No, sir.

Mr. Benoy: Well, I will object to that. You can't very well make a wage where none existed.

239 The Court: I will draw the conclusion whether it is a wage or not.

Mr. Miller: All right.

Q. Now, did your company do any advertising?

A. Yes, sir.

Q. In the telephone directories?

A. Yes, sir.

Q. Are you familiar with the advertising listed in the directories?

A. Generally.

Mr. Miller: Mark this Government's Exhibit 2, I believe it is.

(Thereupon the document was marked as requested, Government's Exhibit 2 for identification.)

Mr. Miller: Q. I will hand you Government's Exhibit 2 and ask you what that is?

A. That is what is referred to as a classified directory ad.

Q. Inserted by your company?

A. Inserted by the company in the Chicago Directory.

Q. In the Chicago Directory for August, 1937?

A. Correct.

Q. And Government's Exhibit 3—mark this, Mr. Reporter.

240 (Thereupon the document was marked as requested, Government's Exhibit 3 for identification.)

Mr. Miller: Q. I will hand you Government's Exhibit 3 which appears in the Chicago Classified Telephone Directory for September, 1942, and ask you whether or not that is an ad inserted by your company?

A. It is.

Q. Did your company have a contract with the Labor Union concerning the Owner-Operators of trucks?

A. Yes, sir.

Q. Do you have that contract with you?

A. Yes, sir.

Mr. Benoy: I have furnished the Government with a copy of the contract long since and I have no doubt but what you have it in your possession.

Mr. Miller: We do.

The Court: Are you going to offer it in evidence?

Mr. Benoy: Yes, sir.

The Court: He stipulates it is a correct contract. I can read it. I don't think you need have the witness read it.

Mr. Miller: It is stipulated.

The Court: This is a copy he furnished you?

Mr. Miller: That is right.

241 Mr. Benoy: It isn't, we furnished you a photostat.

Mr. Miller: It has been furnished by your side of the case by some one, I don't know.

Mr. Benoy: We are not certain in saying whether it is correct or not.

The Court: All right.

Mr. Miller: Except it will be stipulated this is the contract.

The Court: Oh, certainly.

Mr. Miller: Mark this Government's Exhibit 4, please.

(Thereupon the document was marked as requested, Government's Exhibit 4 for identification.)

Mr. Miller: Q. How many Owner-Operators were under contract with you; approximately during these years?

A. I testified previously between fifty and sixty, that is, to the best of my knowledge.

Q. How many trailers does your company own?

A. Well, that depends on the period you are talking about. We owned from nothing to possibly eighty.

The Court: How many?

A. Eighty.

Q. Eighty?

242 A. Company owned trailers.

Mr. Miller: Q. And all of the trailers, the company's name was painted on the trailers?

A. Yes, sir.

Mr. Miller: I think that is all.

The Court: Any re-direct examination?

Re-Direct Examination by Mr. Benoy.

Q. I made an effort to have the witness identify certain statements which you made up; have you made up for the information of the Court a summary of the transportation revenue by the contractors showing both to the contractor and the company for certain amounts covering the period of this operation?

A. Yes, sir.

Q. And have you made up several of the individual operators, for instance, Mr. Pawley who was on the stand yesterday?

A. Yes, sir.

Q. And Mr. Bossert who was on the stand yesterday?

A. Yes, sir.

Q. Are they fairly exemplary of the operations of the amount of revenues received by these contractors?

A. I would say so, yes, sir.

243 Mr. Benoy: I want to have these marked as exhibits and then offer them in evidence.

The Court: Give copies to the government.

Mr. Benoy: Yes, I have, Exhibits I, J and K. I think that is all.

The Court: Are you going to offer these?

Mr. Benoy: Yes, I think I did, Judge. I offered them in evidence.

The Court: No, let us—

Mr. Benoy: I offer them in evidence as Plaintiff's Exhibits I, J and K.

The Court: Any objections?

Mr. Miller: No objections.

The Court: They may be received and marked Plaintiff's Exhibits I, J and K.

Any questions relative to those exhibits?

Mr. Miller: These Exhibits I, J and K cover bonuses paid the employees?

The Witness: Yes, sir, they include bonuses.

Mr. Miller: That is all.

(Thereupon the documents so offered in evidence were marked and received in evidence as Plaintiff's Exhibits I, J and K, and are in words and figures as follows, to-wit:)

244 The Court: All right, you may step down.

Mr. Benoy: Mr. Prante.

ARTHUR F. PRANTE, called as a witness on behalf of the Plaintiff, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your name, please?

A. Arthur F. Prante.

The Court: How do you spell the last name?

A. P-r-a-n-t-e.

Mr. Benoy: Q. Your age, please?

A. Forty.

Q. Where do you live?

A. 8208 Kimbark Avenue, Chicago.

Q. What occupation did you have with Greyvan Lines, Incorporated?

A. Dispatcher.

Q. And how long have you been connected with the Greyvan Lines?

A. Twelve years.

Q. Now, as Dispatcher for the Greyvan Lines, what were your duties generally?

245 A. To assign shipments to a truck for shipment and vice versa.

Q. And where is that done from?

A. Chicago, through intermediate sources.

Q. Now did you get the information as to the contract for transportation of goods for the Greyvan Lines, obtained them from place to place?

A. Yes, I do.

Q. Or relayed to you for checking, is it?

A. That is right.

Q. What did you do after you got that information?

A. Well, we insert the information in books which we have in our office through some reports that are compiled by the branch offices and they are kept in there, the date and order according to location and we work from those entirely.

Q. Well, now then to be shipped about what time, you then consign those transportation contracts to be handled by certain of the truckmen, do you?

A. That is right.

Q. And that includes not only the truckmen, those that are operated, owned and operated by the Greyvan Lines own employees, also by these truckmen who own and operate their own equipment, is that right?

A. That is right.

246 Q. Now, generally what means did you follow in assigning those?

A. Well, that all depends on what person is available for the orders.

Q. And assume that you have an order for transportation of goods, at Atlanta, how do you assign it?

A. We would have to check and find out what equipment was available there in that immediate vicinity.

Q. And then you would assign it to that particular truck that was available, whether a company truck or whether it was an independent contractor, would you?

A. That is right.

Q. Now, you are acquainted with the operations of these trucks, are you, both as to the company owned equipment and as to the individual owner operated equipment?

A. Oh, yes.

Q. When a person has delivered a load, what does he do?

A. The driver phones in to me, wires me, or if he should be unloading where we have a branch office he will report to that branch office for his next instruction.

Q. And that next instruction as to what load he may have and where it may go, is that right?

247 A. That is it.

Q. In other words, it is your job to keep this equipment rolling and the goods being delivered, is that it?

A. Yes, sir.

Q. Now, you and I worked out the other day nine different respects in which the contract truckmen differ from the employees, in that contract?

A. That is right.

Mr. Benoy: I would like to have you tell the Court as to the differences, and I will ask you first as to the right of the contract truckmen to refuse to accept loads that may be tendered to him by you?

A. They have, though contract truckmen do not, as a common thing, refuse to handle shipments when they are issued instructions on those orders.

Q. What do you mean by instructions?

A. Loading instructions, we prepare in our office for them.

Q. That is a paper prepared in your office for them and labelled instructions to the truckmen, is it?

A. That is right.

Mr. Stephan: Your Honor, I would like to interpose an objection here.

248 The Court: Overruled.

Mr. Benoy: Now, I am handing you Plaintiff's Exhibit B and ask you if that is one of the instructions to which you just referred?

A. Yes, sir, it is.

Q. And then after those are issued, he either accepts or refuses the load, does he?

A. Yes, he may have reasons for refusing it.

Q. If so, you accept them, do you?

A. In some cases, not in all. We determine the reason why he is refusing it.

Q. Now, supposing it is a good reason, then what?
A. Well, then we will try to be fair with the man.
Q. Well, suppose it is not a good reason or would not be a good reason?
A. Well, it might be a short haul or a poor pay load which might necessitate exorbitant labor costs on his part and as the result he might not make any money out of the load at all.
Q. Now, even in that event, where that was given as the excuse, what could you do or what would you do?
A. We could terminate his contract with the company.
Q. And that was all you could do, is that right?
A. That is all we can do.
249 Q. Now, as to the method of payment, that has already been gone into, that is different is it?
A. Yes, sir, it is.
Q. How do you pay your own employees?
A. They are paid on a weekly basis.
Q. On payroll?
A. On payroll, by payroll check.
Mr. Beuby: We have already established the method of payment to the contractor so that we will pass that.
Q. Now, the next possible difference is in the ownership, maintenance and operation of the equipment, what difference is there between the contract of the contract truckmen and your own employees in that connection?
A. Well, the contract truckman owns it in his own name under a certificate of title, the tractor and in many instances the trailer. The company driver does not have anything to do with the owning of the equipment, he merely drives it.
Q. Now what about the operation of it?
A. The contract truckman is responsible for all maintenance and expense connected with it.
Q. And the company pays nothing in connection with it, is that right?
A. That is correct.
250 Q. While the company pays all of the expense, all of the upkeep and maintenance of the company owned trucks?
A. That is right.
Q. And, of course, the operation, how does the contract truckman operate his own equipment?
A. I am sorry I didn't get that.
Q. How does the contract truckman operate his own

equipment; in other words may he do it himself or by somebody else?

A. Well, he may drive it himself or he may employ a driver to drive it for him; those arrangements are made between he and the driver. We enter into no agreements.

Q. How about the pay in that respect, except under the contract?

A. That is correct, the payments on that particular truck are limited to the owner of that truck.

Q. Now, with reference to any lost goods in transit which is not covered by insurance, do your truckmen stand for that?

A. The contract truckman is responsible for any claims that might develop, that is his responsibility.

Q. Now, on the company operated trucks, your own employees, who stands for that loss?

251 A. The company does.

Q. I believe the truckmen also furnish a deposit, do they not?

A. Yes, sir.

Q. Now, as far as the payments are concerned for the contract truckmen, they are determined by a pre-arranged schedule, by the contract itself, is it not?

A. Yes, sir, it is.

Q. While the employees of the company operate a truck they are upon the payroll?

A. Yes, sir.

Q. Now, as to the choice of routes, do you dictate all the routes the truckmen must take?

A. No, sir, they are left to their discretion and their judgment. If they want to drive two hundred miles out of their way it is their expense, because they pay all expense in connection with the operation of that vehicle, that is including gas and oil.

Q. So that through Pennsylvania, where they take the super highway?

A. That is up to them, because they have to pay the cost for going over the super highway.

Q. Now, as to laying off the equipment for a time, that possible for the contract truckman?

A. Yes, it is.

252 Q. Have you an illustration of that right now?

The Court: I didn't understand the question.

Mr. Benoy: Q. Have you an illustration of that at this time?

A. Yes, we have one in Springfield, Ohio, at the present time. He is off because of illness. The fact of the matter is he has been off now for about a month, possibly a little longer.

Q. His truck then is idle, is it?

A. Yes, it is at his home.

Q. It is not in the service of the company at all, not available for the company's service?

A. No, sir.

Q. Now, let us go to such as break down on the highway, how are they handled?

A. Should either one of the trucks break down, if he be a contract truckman or a Greyvan Lines truck, the driver informs me by telephone or telegram, gives me the pertinent information. If it should be a minor breakdown he will tell my office that delivery is expected at a certain time to be enroute, and that he expects to arrive at a certain time. He at all times does that. But if it is a major breakdown that will necessitate possibly two or three or four days lay-over to effect repairs and if there is a competent agency and it is necessary to transfer it, and he
253 transfers that on to another truck, or in the case of a major breakdown it may be necessary to send another tractor over to that point of breakdown to get the trailer on through to destination.

Q. Now, then, let us assume you get a contract truckman breakdown with a major breakdown and you have to transfer his load, how is he paid on the contract?

A. That is on a mileage basis; in other words, a contract truckman, the original contract truckman, or the original truckman is credited with the mileage from the point of origin or in other words where he picks up the load from the point of breakdown and the next truckman is credited for the mileage from the point of breakdown to destination.

Q. In other words, it is divided on a mileage basis?

A. Yes, sir.

Q. Now, we have another situation in which it is necessary that a driver—

A. Deadheading.

Q. Is that what you call it?

A. That is what we call it.

Q. Deadheading?

A. Yes.

Q. How do you handle that situation?

A. Do you mean how do we credit him?

254 Q. Do you give him any instructions in the first instance with reference to deadheading?

A. Yes, those are usually handled verbally or by telegram. The only two ways they are handled with the exception that when a truck is deadheading from the branch office to another point he is issued what we call "Deadhead Instructions".

Q. Is that what this yellow sheet here means which I am holding in my hand?

A. Yes, sir.

Q. And does the company pay the truckman on the contract for that deadheading?

A. That all depends on how much deadheading has been done in that particular month and how much loaded and empty mileage he has in that particular month. I believe that is stipulated in the contract as to how he is to be paid.

Q. That is provided for in the contract?

A. That is provided for in the schedule.

Q. Up to a certain point he bears a portion of the deadheading but beyond that the company bears a portion of it?

A. Yes, sir.

Q. Well, when an accident occurs is that reported to you—

A. In some cases, yes, sir.

255 Q. And that is where it affects the transportation, is that right?

A. Yes, if it is one of a serious nature, or if it should be after office hours, Sundays or holidays, the truckman usually phones me and I take the information and work on it from there in conjunction with Mr. Schurtzberg.

Q. In other words, you are available 24 hours a day, is that right?

A. That is correct.

Q. Now there has been reference to a manual of instructions to truckmen which was issued on April 20th by the company?

Mr. Stephan: 1940.

Mr. Benoy: Q. Did you ever refer to that manual in connection with your conversation with these truckmen?

A. No, sir, I have never referred to that; in fact, I have never read it.

Q. So far as your portion of the work is concerned, you do insist upon the performance of that manual, is that it?

A. No, sir, I never referred to it, never had occasion to refer to it.

Mr. Benoy: I believe that is all.

256 The Court: Cross-examine.

Cross-Examination by Mr. Stephan.

Q. You have been employed by the Greyvan Lines for twelve years?

A. That is right.

Q. You have been a dispatcher for those twelve years?

A. With the exception of three months when I first started.

Q. Now you spoke of the differences between the Owner-Operator and the Company owned units. You stated that the owner operator, I believe, could refuse to take a certain load, that is substantially correct?

A. That is right.

Q. Whether that reason was good or not?

A. Well, in most cases it was left up to me to report the reason for the refusal.

Q. In other words, you as an official of the company determined whether the reason for the refusal was good or not, is that true?

A. That is right.

Q. You also spoke of a situation where a man might
257 own a truck, also have another driver, driving it for him; now, as a matter of fact if he desired to put another man on that truck to drive, that driver had to be approved by the company, did he not?

A. Well, that is taken care of really through the bond.

Q. Well, I mean this man couldn't put any one he wanted to on that truck and drive it without the company's approval?

A. That I am sorry I can't answer. I do not think the contracts approve them relative to the drivers, so to speak.

Q. Who has charge of that?

A. During this period Mr. Schertzberg was in charge of that.

Q. Now you also stated substantially the driver, I believe, had his own choice of routes in making a haul, is that true?

A. That is right.

Q. Do you ever recollect any request where you instructed the drivers to take a certain route to arrive at a certain destination?

A. That I have been requested?

Q. Well, wasn't it true, and as a matter of fact, that certain states in the union had very strict laws re-
258 lating to trucks and are much stricter than other states?

A. Yes, that is right.

Q. Isn't it true, for instance, the State of Kentucky has a law, I believe, which made the length of your truck and the weight of your truck a violation of the Kentucky States laws, do you recollect that?

A. Yes, sir.

Q. Well, didn't you, on occasions when you had something going in that direction where normally the shortest route would be across the state of Kentucky, haven't you in some instances advised the driver of the owner-operator to avoid the State of Kentucky and take a longer route?

A. That was merely done through suggestion.

Q. Well, as a matter of fact, the company has been fined on several occasions, hasn't it, for the length of their trailers in the State of Kentucky?

A. That is right.

Q. And naturally the reason you would advise them to take a longer route and avoid those fines and penalties, that is true, isn't it?

A. Possibly tying the vehicle up for an unreasonable time.

Q. Now, I understand your testimony that you have
259 charge of the instructions to the drivers as to the pickup and destination of that load; that is true, isn't it?

A. That is right.

Q. Then it is fair to say, is it not, no driver can pick up a load from any shipper without instructions from you?

A. That is right; those instructions are issued, however, to intermediate offices, our branch offices.

Q. That instruction originated with you at your point of origin?

A. That is right.

Q. Do you have anything to do with the mechanical or the physical mechanical condition of the tractors, and the physical condition of the trailers?

A. No, sir.

Q. Who has charge of that?

A. That is in charge of the superintendent of operations.

Q. Do you have anything to do with the bonus plan as provided for in the contract between the company and the drivers?

A. No, sir.

Q. In other words, did you make any recommenda-
260 tions to Mr. Shearer or to Mr. Schertzberg what bonus should be paid?

A. Only in so far as reported in some cases.

Q. In other words, if you had a man and something came up with the shipper, that man's mental attitude was bad, or the mechanical condition of his vehicle was very poor, you would report that on to higher officials, would you not?

A. If it came to my attention.

Q. Are you familiar with the bonus plan you are operating under?

A. Yes, sir.

Q. You only know, do you, that two and a half per cent of your bonus may be earned for certain definite things such as good physical mechanical condition of the equipment, a man's personal appearance and mental attitude and that one half of one per cent can only be earned, if the other two and a half per cent is earned for a period of three consecutive months; you are familiar with that provision aren't you?

A. Yes, sir.

Q. So that consequently would be necessary that a report be made of the physical and mechanical condition, his personal appearance before it would be possible for
him to earn this last one half of one per cent, would
261 it not?

A. That is right.

Q. Do you have anything to do with vacations of these owner-operators?

A. With what?

Q. With vacations of these owner-operators?

A. Vacations?

Q. Yes.

A. There is nothing stipulated concerning vacations. They can take time off whenever they please.

Q. Well, would you make any objection if an owner-operator of that truck asked to take three weeks' vacation and you were in the busy season?

A. If he wanted to take off that time that was his business.

Q. You wouldn't make any objection of any kind?

A. We might cite the fact that we are extremely busy, but still at the same time we could not tell him that he had to remain on the road.

Q. Now, were you familiar with the logs that the driver kept?

A. Not entirely, no, sir.

Q. Did they ever come into your hands?

A. No, sir.

262 Q. Who had charge of those when they are sent in to the company?

A. Mr. Schurtzberg.

Q. Did you ever see the daily or weekly expense report?

A. No, sir.

Q. Do you know whether any had been made?

A. I know of them, yes.

Q. How long have they been made, do you know?

A. I am sorry I can't answer that, I do not know.

Q. In the event of owner-operator, was there not another situation where you wired him instructions for to pick up a load for a certain destination and assuming also that you had in that particular town or city a resident manager, would instructions also be sent to the manager of that office to supervise the packing or shipping of that load?

A. Oh, no.

Q. Well, wouldn't he on some occasions present himself at the residence of the shipper to see the load was being properly loaded on the van and the customer satisfied?

A. He may from an interest and account standpoint; in other words, we are hauling shipments for many large national accounts and after all if the manager stops

263 at the residence and helps to build up a little more prestige by the fact he is out in the vicinity and he may stop there four or five minutes.

The Court: We will recess for ten minutes.

(Thereupon a recess was had and on the coming in of court after recess the trial of this cause was resumed as follows, that is to say:)

The Court: You may proceed.

Mr. Stephan: Q. Now, Mr. Prante, you testified substantially to making collections by these contract operators. In the event the collection was a C. O. D., that is the operator would collect at the point of destination, would there be any paper or receipt showing that he had received that money?

A. Well, I thought I testified to that before.

Q. Well, you testified, didn't you, it would be either a C. O. D. or by bill of lading?

A. No, sir.

The Court: I think you are confusing him; one of the drivers testified to that.

Mr. Stephan: Q. Are you familiar with the drivers' receipt for money that was received?

A. Then they receipt for money?

264 Q. Yes.

A. Yes, I am familiar with that.

Q. Did you receive a copy of that receipt or did the company receive a copy of that receipt?

A. The company received copies.

Q. Have you ever seen any of those copies?

A. Yes, I have.

Q. Can you state just exactly, if you recollect, how the receipt was made out?

A. Well, it is what we call a freight bill, breaking down various charges.

Q. When the operator received the money, for the money he gave a receipt to the shipper?

A. That is right, with the instructions.

Q. Did he sign that "Greyvan Lines" on that receipt, with his own name underneath?

A. I don't recall, I am sorry.

Q. You don't recollect seeing that?

A. I do know he signed.

Q. Are you familiar with the contract between the operator and the company?

A. Yes.

Q. You have read that, haven't you?

A. Yes, I have.

Q. Are you familiar with the provision, the owner-
26. operator may solicit new business?

A. Yes.

Q. It is true, is it not, they receive commissions for any new business they solicit?

A. That they might develop, yes.

Q. It is true, is it not, they may not load the new business they solicit on to their trucks without express authority from the company, that is, from you as dispatcher?

A. That is right.

Q. That is true?

A. Yes, sir.

Q. Are you familiar with the parking lots that are used by the owner-operators?

A. Yes, sir.

Q. It is true, is it not, that the company presented them with the list designating the parking lots, is it not?

A. For convenience, yes, merely to show them where they have facilities for parking.

Q. Well, who arranges for these parking lots; who arranges for these facilities?

A. That is, sometimes some parking lots are even suggested by the truckmen at outlying points. They may go through a town that has good facilities.

266 Q. Well, before a certain parking lot would be placed on your designated list, some official from the company would go out and inspect that lot, would they not?

A. No, sir, not always. There are many lots that we haven't seen.

Q. Have you had any correspondence with the operators of these parking lots of the accommodations which they furnish the men?

A. Usually correspondence from the owners or operators that a particular station operating, soliciting the stopping of the trucks there because of the facilities they have.

Q. Are you familiar with the gasoline credit cards that the owner operators carry with them?

A. Yes, sir.

Q. It is true, is it not, that those cards are made out in the name of the Greyvan Lines, with the number of the trucks on them, identifying them?

A. I don't recall whether they are made out under the name of the Greyvan Lines. I haven't seen them for quite some time.

Q. Does the company, you recollect, always have the caption on the cab of the tractor as to the empty weight capacity of that unit?

A. That is a requirement of many of the states.

267 Q. Well, have you always had that on your cab of the tractor, of the owner-operators or the company owned units?

A. Yes, in so far as I remember.

Q. As far as you know in your experience with truckmen?

A. Yes, sir.

Q. Are you familiar with the laws of most of the states in relation to what caption shall be placed on the cab of the truck?

A. Yes, sir, I am.

Q. Are you familiar with the laws of the State of Illinois requiring the name and address of the owner of the truck to be on the cab side, on the cab of said truck?

A. There is none that I know of.

Q. None that you know of?

A. No.

Q. Never been any discussion between you and other officials of the company about that regulation?

A. No, sir.

Q. I will show you a photograph marked Government's Exhibit 5 for identification and ask you if you recognize that and tell me what it is.

A. Yes, that is tractor 219.

268 Q. Is that owned by the company, or the owner-operator?

A. That is the owner-operator.

Mr. Stephan: Mark this Government's Exhibit 6 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 6 for identification.)

Mr. Stephan: Q. I will show you Government's Exhibit 6 for identification, being a photograph and ask you if you know what that is?

A. That is Greyvan Lines; that is tractor 219. I cannot identify it.

Q. The one picture was a tractor and the other picture shows the complete unit, tractor and trailer?

A. That is right.

Q. Other than 219 on this truck, how could you distinguish your truck from a company owned truck?

A. By knowing the number of the truck.

Q. Well, if the number wasn't on it, how could you distinguish between a company owned truck or an owner-operator truck?

A. Well, we might identify it by the serial number of the motor.

Q. It would have to be something other than a casual observation to indicate to you who owned that truck, 269 is that so?

A. Yes.

Q. Going back to the parking lots for a moment, do you have a dispatcher or some official of the company in any of these parking lots?

A. Not in the parking lots, no.

Q. You have one in your parking lot in Chicago?

A. We do not have a dispatcher.

Q. Do you have an employee of the company in that lot?

A. We have.

Q. How many?

A. But during the period that is covered, we did not have at that time.

Q. But you do now; you didn't during the period of 1937 to the period of 1942, this period covered?

A. We did not at that time.

Q. Are there any specific instructions given in any particular instance as to the way a particular load should be loaded or unloaded at destination?

A. Only in so far as based on the loads are concerned for the convenience.

Q. Is it particular—well, assume some very valuable shipments, an oil painting or something of that nature, wouldn't you, as dispatcher instruct the owner or 270 owner-operator to load that in a particular way or would you leave it up to his discretion?

A. I don't believe I would tell him how to load it, because I don't know. That is left up to his discretion.

Mr. Stephan: That is all.

The Court: Any re-direct examination?

Re-redirect Examination by Mr. Benoy.

Q. These lots you are referring to are generally lots that are owned by filling stations, are they not, and they simply put them at your disposal with the expectation of getting patronage for gasoline and oils and supplies, is that not it?

A. Yes, sir.

Q. Now the owner operator is not required to have any specific make of truck, is he?

A. No, sir.

Q. He may buy any one he chooses, may he not?

A. That is right.

Q. The only limitation provided in the contract it must have a minimum carrying capacity, is that it?

A. I believe that is right.

Q. As to these photographs here shown you of
271 the van, you don't know whether they were taken lately, do you?

A. Only in so far as the number identifies it.

Mr. Benoy: That is all.

The Court: You say your commission on new business that you testified about, you say these owner operators may solicit new business and get commission on it?

A. Yes, sir.

Q. How about the regular driver working for you, driving for the company owned trucks, may they solicit new business?

A. They may do the same thing.

Q. And they get the same commission?

A. The reason for that being that there are times when a truck may be unloaded at an outlying point. We have run across cases where people come up to them and ask them about our services, et cetera, and they are rather naturally trying to get the business for Greyvan Lines.

Q. And the commission is paid to regular employees, the same commission as is paid to the owner operators on the business?

A. I believe it is [illegible] per cent.

Q. Ten per cent on each case?

A. That is right, of the transportation.

272 The Court: Very well, that is all, sir.

Mr. Benoy: Mr. Schertzberg.

ALLEN F. SCHERTZBERG, called as a witness on be half of the Plaintiff, after having been first duly swor was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. State your name, please.
A. Allen F. Schertzberg.
The Court:—How do you spell that?
A. S-c-h-e-r-t-z-b-e-r-g.
Mr. Benoy: Q. Your residence?
A. Palos Heights, Illinois.
Q. Have you any connection with the Greyvan Lines Incorporated?
A. Yes, sir.
Q. What is that?
A. Assistant Secretary.
Q. How long have you been connected with the Grey van Lines?
A. Since August 31, 1931.
Q. As what?
The Court: Assistant Secretary, did you say?
273 A. Yes, sir.
Mr. Benoy: Q. What is your particular duti during the period covered by this examination?
A. My duties have never been static, at any time. has been a gradual progression, but during this ti among other things, I handled the matter of bonus award I maintain the record on insurance, accidents and kept contract files and various other duties.
Q. Do you have to do with the owner-operator c tracts?
A. Yes, my files were restricted to that entirely cept for accidents on company owned equipment.
Q. Do you handle the insurance part of your wo
A. Yes, sir.
Q. You say you came with the company when, in 19
A. Yes, sir.
Q. Has the company maintained these character contracts ever since that time?
A. Yes, indeed.
Q. Did it at one time operate entirely on the cont system?

A. Yes, sir.

Q. And when did it start to change?

A. You mean as to date?

Q. Yes, the approximate date?

274 A. Some time in the latter part of 1936.

Q. Does the Company operate partly on the Owner-Operator basis and partly on the employment basis?

A. Yes.

Q. Now the Owner-Operators all owned their own trucks do they not?

A. Yes, sir.

Q. And what is the requirement with reference to the character of the equipment that the Owner-Operator might furnish under this contract?

A. Well, it makes no difference to us what the manufacturer's name is or anything. We are only concerned with whether or not he furnished a vehicle that will meet the requirements of the service for getting over the road.

Q. Now, is there a plan for the uniformity of painting?

A. Yes.

Q. And what is it, tell the Court what it is.

A. Well, the plan is, painting is simply to have attractive advertising that shows the name of the company and indicates sufficient similarity that it can be readily identified as a vehicle in the service of the Greyvan Lines fleet.

Q. Who pays for the expense of painting?

275 A. The truckmen pay the initial expense and we repaint at our expense when it is necessary.

Q. Does your department co-operate with Mr. Prante's Department in the dispatching business?

A. No.

Q. He handles that exclusively; what is the system with reference to the execution of the bill of lading, that is necessary, a bill of lading is necessary under the Interstate Commerce rules, is it not?

A. Yes, the ICC rules and regulations require that a carrier give a bill of lading at the time the shipment is picked up as the shipper's receipt for that shipment.

Q. And that also operates as a contract of carriage—does it not?

A. Yes, sir.

Q. And that form is even prescribed by the Interstate Commerce Commission, is it not?

A. Well, I don't know whether you would say pre-

scribed by them. It is set out in our tariff. The tariff is filed pursuant to the rules and regulations of the Commission and it has been approved.

Q. Now, the charges for services rendered by the company to the shipper are in conformity with that tariff, are they not?

276 A. Yes, sir, we are under compulsion to charge no more or less on this.

Q. Now, what is the class of men you engage as these owner-operators?

A. As in the past.

Q. During the time involved in this investigation?

A. Yes, sir.

Q. Well, how do you get them in the first place?

A. Well, there are various ways. We have advertised and the contract truckmen suggested men that came to us occasionally. When they are here they just come in and make a personal appearance in the office.

Q. In other words, in various ways?

A. Oh, yes.

Q. When you receive an application for contract truckmen, what investigation do you make of him?

A. Well, we are primarily concerned with the character, the honesty and responsibility of the man, we are under compulsion by the I C C regulations with respect to his physical condition and we want to know whether or not he has sufficient intelligence to operate his own business.

Q. Now, do you ask him for references in the first place?

277 A. Yes.

Q. You have a written form of application on which he makes application?

A. Yes.

Q. And does he apply specifically for opportunity to operate under this contract?

A. Yes, indeed.

Q. Now, in connection with that, do you get a physical examination report?

A. Yes, we are compelled to on all new men under the I C C rules and regulations.

Q. Does he submit that report as a part of his application?

A. Yes, sir.

Q. And may they be obtained at any qualified doctor?

A. That is right.
Q. Is he asked for references?
A. Yes, sir.
Q. Do you investigate that reference?
A. Yes, sir.
Q. What generally is the class of men required to operate this character of business in which you are engaged?
A. Well, he has to be a high grade man. He has
278 to be a man that is a self starter. A man who can stand on his own two feet. A man who is resourceful and diplomatic. A man who doesn't hesitate to get his hands dirty and goes out on the job. He must be competent to measure values, to know where he is going in a business way.
Q. And he must be competent to operate the equipment, must he also?
A. Yes, indeed, that is required by the rules and regulations of the ICC.
Q. In other words, he must be a business man in a small way as well as an operator of a truck, is that it?
A. Yes, sir.
Q. Now do you interfere in connection with the truckmen as to where they make their repairs?
A. Not one bit, no.
Q. At their own expense, is it?
A. Yes, sir.
Q. Do some of them arrange for repairs to be made and charge it to their own account by the company?
A. Yes, if there are substantial amounts like major overhauls.
Q. In other words they take their own trucks into the repair shop?
279 A. Yes, sir.
Q. And leave it there for repairs?
A. Yes, sir.
Q. And arrange to have it charged direct to their account at the company, is that right?
A. That is right; the repair shop will usually check with us to see if that arrangement is satisfactory.
Q. Now you carry a deposit against them of $250.00, do you have such a thing, do you not?
A. Yes, sir.
Q. In connection with your truckmen is there any payroll used in connection with them?

A. Not at all.

Q. They are paid solely on the contract basis, are they?

A. Yes, sir.

Q. Is it your business to see that the contracts of the truckmen are performed?

A. Well, that can hardly be imposed on any one individual; that takes in the whole organization; it is a co-operative affair. The truckmen have certain duties and obligations and we have certain duties and obligations.

Q. During this period you handled the bonuses
280 did you not?

A. Yes, sir.

Q. In connection with that, would that require that you check and see that these contract truckmen perform their contract?

A. No, we didn't have such requirement toward the awarding of bonuses, we use our discretion and it was based upon my best judgment on the information which came to us.

Q. And where did you get the information on which to base your judgment?

A. We would get the information from the truckman himself, and we would get the information from the shippers. We may get the information from the branch offices.

Q. Now, before you pay those bonuses you were satisfied the contracts had been diligently carried out, weren't you?

A. Oh, yes.

Q. Is there anything more to say in connection with that than that?

A. The bonus?

Q. With reference to seeing that those contracts are executed?

A. Oh, I can't see anything.

281 Q. Something has been said here about that—well let us cover first these parking lots, what are they?

A. A parking lot is just a commercial establishment who seeks a volume of business or gallonage as they refer to it, they know that a truck, particularly a long distance truck have large capacities, make long trips and they are alert in the promotion of business, trying to get as much as they can in order to attract that business; they often approach them and tell them what facilities they have and want to know, that is, different people approach our men

and want to know if they could arrange to have a man stop out to their places and occasionally the men themselves at some distant places they will tell us that they stopped at a certain place and he has fine facilities and they asked us if we would post that so that they can get the business and in that way—

Q. Do you pay any compensation to the owners of these lots?

A. None whatever.

Q. In other words, they sort of look after their own business?

A. That is right, a business transaction between them and the contractor.

Q. Now, so far as the facilities are concerned, what
282 advantage would that be to the truckman?

A. It would give him a place where he could take his vehicle in off the street without payment of parking fees. We only do that on the assumption that he buys gas from the man in exchange and they have the privilege of giving him the place where he can meet others and fraternize together where they go out and entertain at this place, rather, a place for recreation, it gives him a place where he can meet his fellowmen and seek any instructions for the handling of any shipment, a sort of a headquarters for him away from home.

Q. Do your men sleep in their cabs to a reasonable extent?

A. As one very common practice.

Q. Does that afford a place where they park at night and sleep in their cabs?

A. Yes, sir.

Q. Then with reference to the availability of help for unloading loads and loading loads?

A. Well, the practice has grown up among the local men who went into it, wanted to go in on the lot or have been on the lot where they stay home and they find out where they are from distant points, especially when
283 they go inside and park and they sit around those places, probably looking for jobs and men come there, sometimes they are wanted for loading and unloading, many times it is a point of meeting, a source for labor to be available for them.

Q. Now, as to the rules and regulations of the I. C. C. the contract provides, does it not, they must be observed by the contract truckman just the same as the company?

A. Yes, sir.

Q. What is the reason for that?

The Witness: I don't understand your question.

Q. He knows what the rules and regulations are?

A. Yes.

Q. So, in order to accomplish the contract, he must comply with the same rules and regulations, is that right?

A. Yes.

Q. These bonds are fidelity bonds, are they not?

A. Yes, sir.

Q. And that covers what?

A. It insures the honesty of the men.

Q. You mean making the collections?

A. Yes, sir.

Q. That is, collections on freight?

A. Yes.

284 Q. That is what you referred to as C.O.D., is it. "Collections on Freight charges" is what you referred to as C.O.D.?

A. That is right. That is the common term used.

Q. You have little, if any business where the truckmen collected the value of the articles delivered?

A. I know no instance of that arrangement; it might be well to state also that the Federal Motor Carriers Act itself compels us to collect the freight charges and all accumulated charges before delivering the shipment except if credit has been arranged under the rules which they promulgated.

Q. Then it is a truckman's obligation to collect the freight charges before he delivers the goods?

A. Right.

Q. Unless they are on the approved credit list?

A. That is right.

Q. Those charges run how high?

A. They may run anywhere from $100 to $800 or $900, depends on the size of the shipment, and how many vehicles are involved in the carriage.

Q. Is there more than one vehicle involved occasionally?

285 A. Oh, yes.

Q. And is that load in charge of a particular truckman?

A. The loading itself?

Q. No, no, the transportation as a whole and the obligation, particularly, to collect?

A. Some one truckman is given a freight bill, yes, and it may be any one of them.

Q. Some of these truckmen operate more than one truck, is that right?

A. Yes, sir.

Q. In that system they take and employ their own help to operate these trucks, do they?

A. Yes, sir.

Q. And pay for it, do they?

A. To my knowledge.

Q. At least, the company did not pay it?

A. No.

Q. This parking lot help, the company pays nothing with respect to that help, do they?

A. Not for contract truckmen.

Q. As to your own employees?

A. That is right, if we employed them we paid them.

Q. And he got that help entirely, the truckman, did he?

286 A. Yes, sir.

Q. And did he sometimes get it through a warehouseman?

A. Very frequently, that is a very common practice.

A. In which event he paid the warehouseman, did he?

A. Yes, sir.

Q. And did pay the help direct?

A. No.

Q. That is what is listed under the title "Dummy" in the supplemental returns here, isn't it?

A. I don't believe I would be competent to testify on that point.

Q. Did you take the power of attorney from a truck operator who went out with two or more trucks, who engaged somebody to operate his own equipment?

A. In each case.

Q. That power of attorney authorized you to regard the employe of the truckman the same as if it were himself, is that correct?

A. As far as to the shipments in that vehicle or the handling of that, or of the shipping papers, yes.

Q. In other words, the power of attorney gave to the employee the same powers as he would have under the contract?

A. Yes, sir, that is right.

Mr. Stephan: We object.

287 The Court: I will determine that.

Mr. Benoy: All right, your Honor.

Q. Now, as to the insurance, the Interstate Commerce Commission rules and regulations had to do with respect to insurance, did they not?

A. Yes, sir.

Q. How did they require the policy to be written?

A. Well, they didn't so much specify the reading of the policy, they specified the form of certificate which the insurance company filed with the Commission under which they undertook—that is, the insurance company undertook to make the policy available.

Q. Was it possible to divide the coverage?

A. No.

Q. In other words a fleet policy?

A. That is right.

Q. With the company?

A. Yes, sir.

Q. With no description of the vehicle, is that correct?

A. That is correct.

Q. So that every vehicle operating under the certificate was included under the policy?

A. Yes, sir, the descriptions were waived.

Q. Then did you have to file anything with reference
288 to the various departments of the thirty-eight states in which you operated?

A. Yes, in most states the form of certificates or a certified copy of the policy embracing the statutory form of endorsement was required.

Q. That was in addition to the other?

A. That is correct.

Q. To the main policy?

A. That is correct.

Q. Now, what is the fact with reference to being required also to comply with the regulations of the various commissions in the states in which you operate, the thirty-eight states?

Mr. Miller: We object to that, your Honor.

The Court: What do you want to prove on that point?

Mr. Benoy: Well, you mentioned short hauls that were in doubt, if your Honor please, and what we want to do in this case in regard to that is—

The Court: I will sustain the objection to that.

Mr. Benoy: Q. With reference to these parking lots, did the other moving company or companies engaged in a similar business to yours, also use those same lots?

A. Oh, yes, they did in many instances and still do, competition you see—

289 Q. Is there very much competition in this business?

A. Oh, very much, is right.

Mr. Benoy: You may cross-examine.

Cross-Examination by Mr. Miller.

Q. Mr. Schertzberg, when an Owner-Operator made application, do you have an investigator check up on his character?

A. Did we have an investigation?

Q. Yes.

A. We had an investigating company make a separate independent check in addition to our own.

Q. Did you follow about the same procedure in connection with the employees that operated your own trucks?

A. No, we were not as careful about them.

Q. Well, where did they operate, did they operate in much the same manner as these or in the same territory as the Owner-Operators?

A. Well, now, I would take exception to the same manner. I would say this in answer to you, as far as we are concerned in the operation of the business, it makes no difference whether it is a company vehicle or a contract owned vehicle, any one of them may go to any point in

290 the states in which we serve.

Q. But you made a more complete investigation as to the owner operators?

A. Yes, I think we did, because we had more at stake, we had more to check on.

Q. Now, did you give him the mental examination?

A. I couldn't hear you.

Q. Did you give them the mental examination?

A. No, we did not.

Q. How often did they take the physical examination?

A. Only required by the Interstate Commerce Commission for physical examination at the time we first do that, when a person begins driving in Interstate Commerce. In the State of Tennessee, however, it requires an annual examination, and they agreed to accept the form recommended

by the Interstate Commerce Commission. It is customary for each of the contractors to have a medical examination annually.

Q. You sent the men to a doctor here in Chicago?

A. No, they select their own doctor.

Q. Didn't you recommend a doctor to them?

A. No, sir.

Q. Now, were you in charge, yourself, of making up these bonus awards?

A. I am only in charge of determining whether a
291 bonus should be awarded.

Mr. Miller: That is right.

The Witness: A. At the time I make that, I have no knowledge of the amount of business, the amount of bonus involved and required; notations, if any will show on the bonus statement; then it goes to the Accounting Department.

Q. You have the final determination for the total amount of bonus that is paid?

A. No, I do not. I have to determine whether or not it should be awarded or not. I don't have anything to do with the amount.

Q. Who determines that?

A. I beg your pardon?

Q. Who determines that?

A. That is determined by the Accounting Department, by the amount of business that is done in this period.

Q. Can you state the number of the owner operators or the approximate average number during this period that owned their own trailers?

A. No, I couldn't. It is constantly varying as Mr. Shearer testified we have been in the position where it was all owned by the company to the position where none of it was owned by the company.

Q. Now, do you have anything to do with sending
292 the employees or the owner-operators or your own employees to one certain place for the purchase of uniforms?

A. Did I?

Q. Yes.

A. No.

Q. Most of the uniforms were purchased from Greenberg & Company here in Chicago, is that right?

A. There was no uniform as far as that is concerned:

they put out a garment available to use the same as anybody else.

Q. What does that garment consist of?

A. What does that garment consist of?

Q. Yes.

A. Whatever the man selected.

Q. You mean he is at liberty to select his own?

A. Indeed, yes.

Q. Had the Greyvan Lines, Incorporated lettered on the uniform, did it not?

A. I don't think it does.

Q. You mean the uniform don't contain that lettering?

A. I understand there was no uniform. We have furnished, in many instances, at no cost an emblem showing Greyvan Lines, but it does not say Greyvan Lines, Incorporated.

Q. Did you have anything to do with the preparation of the document known as the manual?

A. I did.

293 Q. I call your attention to page 2 of the Truckmen's Manual, which states the company has adopted a uniform consisting of Greyvan Lines, blue uniform, cap and jacket and trousers and shirt to be worn with a black necktie, belt and shoes, or boots, can you explain that to me?

A. No, I did not write it, I never enforced it. Never took it into consideration in awarding bonuses.

Q. Who is responsible for the insertion of that provision in the Truckmen's Manual?

A. The Manual in the majority was prepared by a group of three men who are no longer connected with the company and it was impractical and was not adhered to.

Q. Who were those men?

A. George W. Healy, John C. Davis and Norman E. Carlson.

Q. The Manual was put out in the year 1940, wasn't it?

A. That is correct.

Q. And given to all truckmen?

A. Yes, and given to them, yes, I think so.

Q. And did you ever issue any instructions to the truckmen, they were no longer to follow this Manual?

A. Not to my knowledge, no.

294 Q. They were never notified, so far as you know, they were not obliged to follow the Manual?

A. No, not to my knowledge.

Q. Now you testified, I believe, that the company started to put on their own operated trucks. I believe you testified it was in 1936, didn't you?

A. That is to the best of my recollection when we started again to use the company owned vehicles.

Q. Are you not mistaken about that, wasn't it in 1938?

A. It could have been.

Q. Could have been, you attended a hearing before the Interstate Commerce Commission?

A. I attended one hearing in Chicago.

Q. The one on obtaining the certificate of publication—

A. On the Grandfather's application, yes.

Q. Were the owner operators required to belong to a labor union?

A. They elected to do so.

Q. No, were they required to do so by your company?

A. Were they required to do so by us?

Q. Yes.

A. They had no requirements other than the contract with the union.

295 Q. Other than your contract with the union?

A. Yes, and their's.

Q. Did you say anything to them at the time they went to work for your company about the union question?

A. Did I?

Q. Yes.

A. Yes.

Q. You called their attention to that fact?

A. I called their attention, we had a union contract.

Q. They would be required to belong to the union, didn't you?

A. Yes, it is a closed shop contract.

Q. That is right. Now, about selecting helpers, isn't it a fact that the owner operators were instructed to select helpers that belonged to the union whenever possible?

A. That is part of the union contract.

Q. Well, you so instructed them, didn't you?

A. I beg your pardon?

Q. You so instructed them, didn't you?

A. Well, we carried out our contract.

Q. Not that, you so instructed them?

A. We carried out our contract.

The Court: Answer the question, did you so instruct them?

296 A. I have no recollection specifically of personally instructing any one to that effect.

The Court: Then answer it that way.

The Witness: That is my answer.

Mr. Miller: Q. Now, did you have a contract with the Standard Spring Company here in Chicago?

A. Not to my knowledge.

Q. Isn't it a fact that you sent the owner-operators to the Standard Spring Company for the purpose of having their trucks repaired?

A. No, I never did.

Q. Did you have anything to do with that branch of the business in the company?

A. Not directly.

Q. Who would be in charge of that work?

A. Well, Mr. Carlson was in charge of that. He is no longer with us.

Q. You don't know what he did in that regard?

A. Only in a general way.

Q. You got information from various sources in making up the bonus rates, did you not?

A. Yes, sir.

Q. And did you have any checkers or investigators out on the highway that checked up the men to find out whether they were complying with their contract?

297 A. No.

Q. You instructed your staff, did you not, in other cities to make reports to you as to the physical appearance of the man?

A. No, I have no recollection of any such instruction.

Q. Do you know whether the company did issue any instructions?

A. No, I do not.

Q. You did make reports to them, didn't you?

A. Oh, yes.

Q. You don't know whether they were ever instructed, to use that repair facility?

A. No, I do not, because there was no formal report for anybody. It is merely correspondence or complaints.

Q. Did you write them to that effect requesting them to send that information in to you?

A. Did I write who?

Q. Your field men?

A. No.

Q. You mean they just sent that in of their own volition without instructions?

A. That is right, and they come from the customers lots of time.

Q. I am speaking about your field men now.

The Witness: All right.

298 Q. You didn't give them any instructions or directions along that line?

A. Not to my knowledge.

Q. Or no other officer of the company to your knowledge?

A. Please state the last question.

Q. Or any other official of your company?

A. No, I don't get the connection.

Q. So far as you know, no officer of your company ever did give them any instructions?

A. No.

Mr. Miller: I think that is all.

The Court: Any redirect examination?

Mr. Benoy: I have one or two.

Redirect Examination by Mr. Benoy.

Q. As to these union contracts, you had two union contracts, didn't you?

A. Yes.

Q. One with respect to your own employees and one with respect to these contract truckmen?

A. That is correct.

Q. This particular one to which I call your attention being a photostatic copy of Government's Exhibit 4,
299 the first page of Article 1, Section 1:

"The company agrees that this agreement is made with the union to cover only such members of the union hereinafter referred to as truckmen or truckman".

And that was made with respect to the truckmen in question, was it?

A. That is correct.

Q. Now the one which I am handing you here dated 5/4/38, is made with respect to your own employees, is that correct?

A. Yes, sir, it specifies it right on it.

Q. And attached to the union contracts was a copy of

the truckmen's schedule, the same as here also attached to the written contract with the truckmen?

A. That is correct.

Mr. Benoy: That is all.

Mr. Miller: Just one more question.

The Court: You may ask him.

Recross Examination by Mr. Miller.

Q. Mr. Schertzberg, did you have anything to do with the schooling that was conducted for the new owner-operators?

300 A. In the period under consideration I don't think we started the school.

Q. Under what period are you talking about?

A. From November 1937 through March 31, 1942.

Q. You mean you had no school during that time?

A. I don't believe so, it is pretty difficult with a fast moving business like ours to remember.

Q. Do you remember when you started the school?

A. No, I don't.

Q. Do you have any records that would show when your school started?

A. No.

Q. Do you have a Claim Department?

A. Did we have?

Q. Yes.

A. Yes.

Q. Was that under your supervision?

A. No.

Q. Who was in charge of that?

A. You mean at that time?

Q. Yes.

A. I believe Mr. Healy was in charge during that period.

Mr. Miller: That is all.

Mr. Benoy: One question, please.

The Court: What are you going to inquire about?

301 Mr. Benoy: I want to inquire about one of the matters he just concluded as to the claim department. I want to know whether that is the claim department in regard to accidents you are referring to or claims with respect to damaged goods.

The Court: You may ask him.

Re-re-direct Examination by Mr. Benoy.

The Witness: What is the question?

Mr. Benoy: Q. I want to know whether that was the Claim Department in regard to accidents that you are referring to or claims with respect to damaged goods?

A. Our definition and understanding of a claim department in our business is the incidental claims to the shipments.

Mr. Benoy: Q. And the question of accident claims with reference to accidents on the highway?

A. That comes in under insurance, in my department.

Mr. Benoy: That is all.

The Court: Q. As an officer of the company, what in your opinion are the relative advantages of these two systems of drivers you have now, the regular driver or employe driving the company's owned equipment and the contract operators driving their own equipment?

302 A. Yes, sir.

Q. From the standpoint of the company now as an officer in charge of their drayage service, what are the advantages to the company?

A. Well, the big difficulty in our business, Judge, is the fact that all of this work is performed away from our premises. We have no opportunity to supervise all the things and by some business standards, our business methods would be very loose, but they are loose because the great scope we cover. Now, a man who merely works for a wage has no investment, he is only concerned with that wage, he doesn't have to pay any expenses of the operation. It is very difficult to find a man that will be loyal to those requirements away from your direct supervision. Our experience has shown this very definitely that a man who has his investment in his equipment has regard for that investment, gives it better care. He has a greater incentive to get the work done, to get to the town or city, to avoid the expense of claims due to his carelessness because he has to assume those. He has a broader grasp on what is a business than the other man. There are so many features that make it definitely advisable that I am frank to say this, however, that if the

303 manpower situation was such as it has been, I think we would have all contract owned vehicles.

The Court: If it were not for the present shortage of men?

A. Yes, the shortage of men.

Q. A sort of a feeder point for the company, you feel it would be more advantageous to have all your business done by contract carrier or contract driver operators than regular employees?

A. Yes, we get better service, give better service to the people and maintain higher standards by men in that capacity.

Q. Now, from the standpoint of a man and the operator, you find it easier to employ an operator that has regular employees than to get a man under contract?

A. That is true sometimes, but today it is not true.

Q. How do the wages compare relative to earnings? Now, some men here yesterday testified they run up, some of them said, one of them said he got $250 to $300, and another said he made a net of four or five hundred dollars a month after expenses?

A. Yes, sir.

304 Q. How does that compare with your six-day drivers?

A. Oh, it is materially more.

Q. How much would an ordinary company driver average, now just take the average case with a reasonable allowance of bonus, not a man who operates his own business, for instance what is the average weekly wage, how much would it be?

A. Well, the pay is $42.50 a week.

Q. That is the base pay?

A. Yes, sir.

Q. Then you had some bonuses?

A. His bonus, however, would be only two per cent, rather three per cent as for the contractor because he has no investment I should say if they worked full time, a good man, he would run $185.00 to around $200.00 a month.

Q. That would be substantially less than that of a contract driver?

A. Yes.

The Court: Thank you very much. Anything further with this witness?

Mr. Benoy: I think that is all.

The Court: Very well, we will hear from the government. You have no further witnesses?

305 Mr. Benoy: I have one more gentleman I want to put on to ask a couple of questions of.

The Court: We will have him at two o'clock.

We will recess at this time until two o'clock.

(Whereupon a recess was had to the afternoon of February 2, A.D. 1944 at 2:00 o'clock P.M.)

306 In the District Court of the United States.

(Caption)

Before:

Hon. William J. Campbell, Judge

Wednesday, February 2, 1944,
2:00 o'clock P. M.

Court met pursuant to adjournment.

Counsel present:

Messrs. Wilbur E. Benoy and George T. Christie, appeared for Plaintiff;

Mr. J. Albert Woll, United States District Attorney for the Northern District of Illinois, Eastern Division, at Chicago by

Mr. John D. Stephan, Assistant United States District Attorney, and

Mr. Homer R. Miller, Special Assistant to Attorney General of the United States of America, appeared for the Defendant.

(And thereupon the following proceedings were had:)

307 The Court: The plaintiff may proceed.

Mr. Benoy: Mr. Foote.

DON FOOTE, called as a witness on behalf of the Plaintiff, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Benoy.

Q. Your full name.
A. Don D. Foote.
Q. Where do you live?
A. Spring Hill, Kansas.
Q. Are you one of the contract truckmen for the Greyvan Lines?
A. I am.
Q. How long have you been since?
A. Since the spring of 1937.
Q. In all that time did you ever wear a uniform?
A. I never have.
Q. Does the company ask you to wear a uniform?
A. Nobody approached me on that subject.
Q. At that time how many kinds of motor vehicle equipment did you own?
A. I have owned four tractors and three trailers, 308 tractor trailers which I own at the present time.
Q. In any of those instances did you ever have any help from the company in financing those vehicles?
A. I never had any assistance whatever from the company.
Q. The certificate of title is in your name for all that equipment?
A. Absolutely, all in my name.
Mr. Benoy: That is all.
The Court: Q. How long have you been with the company?
A. Since 1937.
Q. Since 1937?
A. Yes, sir.
The Court: You may cross examine.

Cross-Examination by Mr. Stephan.

Q. Have you been on one or the other of those pieces of equipment at all times?
A. I have been on each and every one of them some time or another during that period.

Q. Did you have a separate contract with the company?
A. I have had two separate contracts.

309 Q. Do your other men that are employed by you that drive these units, do they wear uniforms?

A. I couldn't answer as to that, but I do not think either one of them ever had a uniform on. One of them may have had one, whether he did or not, I can't remember.

Mr. Stephan: That is all.

Mr. Benoy: That is all.

The Court: You may step down.

Mr. Benoy: May it be stipulated by the government that all taxes assessed by them under Title VIII were paid by the plaintiff and no part thereof was collected from the persons specifically named or the persons mentioned as unknown persons?

The Court: May it be so stipulated?

Mr. Stephan: Yes.

Mr. Benoy: We rest.

The Court: Plaintiff rests. You may put on your defense.

(Thereupon the Plaintiff rests.)

310 (Thereupon the Government, to maintain the issues on its behalf, introduced the following evidence, that is to say:)

Mr. Stephan: Mr. Garrison.

JOE GARRISON, called as a witness on behalf of the defendant, after having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Stephan.

Q. State your name, please.
A. Joe Garrison.
Q. Where do you reside?
A. 3028 Fulton Boulevard, Chicago.
Q. By whom are you employed at the present time?
A. Armstrong Tool Company.
Q. Calling your attention to the date of June, 1939, by whom were you working for on that date?
A. I was working for a brother on the Greyvan Lines.

The Court: I didn't get the date.

Mr. Stephan: June, 1939.

Q. You say you were working for your brother?

A. Yes, sir.

Q. Who did he work for?

A. Greyvan Lines.

Q. In what capacity were you working for your brother?

A. As a helper.

Q. How long did you work for your brother as a helper?

A. 1939 and practically all of 1940.

Q. Calling your attention to December 1 of 1940, I will ask you if there was any change in your employment at that time?

A. Yes, I bought the tractor, made a new contract to work for the Greyvan Lines.

Q. Your brother previously owned a tractor?

A. Yes, sir.

Q. Is that so?

A. Yes, sir.

Q. Did you own the trailer he pulled?

A. No, sir.

Q. Do you know who owned that?

A. The Greyvan Lines.

Q. Did he lease it from the Greyvan Lines?

A. Yes, sir.

Q. On or about December 1, 1940, you purchased the tractor from your brother, is that correct?

A. That is right.

Q. Did you enter into a contract with the Greyvan Lines at that time?

A. Yes, sir.

Q. Going back to the date of June, 1939, you began working for your brother, were you required at that time to take any schooling course at the Greyvan Lines?

A. Yes, I did go to school.

Q. How long did that course last?

A. Oh, I would say five days.

Q. About how many hours a day did you go to class?

A. In the afternoon, three or four hours.

Q. What generally was discussed at these classes, to the best of your recollection?

A. Well, the paper work, we were to do a little me-

chanical end of it, how to handle the equipment and how to handle a shipper.

Q. Was there any discussion as to insurance?

A. Yes.

Q. Were there various papers that were used to make up the work, you were shown how to use those?

A. Yes.

Q. I will show you what has been marked as Government's Exhibit 1 for identification and ask you if you have seen that before?

313 A. Yes.

Q. Did you receive one of these from the Greyvan Lines?

A. I did.

Q. Did you receive this on or about the time you were taking your schooling course?

A. We went out on the trips.

Q. You went out on the trips?

A. Yes, sir.

Q. Was this book used in your schooling course, do you recollect?

A. I can't say.

Q. Well, were some papers or forms of some kind used during your schooling course?

A. Yes.

Q. But you did receive such a manual for trucking before you went out on the road for the company?

A. That is right.

Mr. Stephans: Your Honor, I wish to introduce this Government's Exhibit 1 which has previously been marked for identification.

The Court: Any objection?

Mr. Benoy: Objected to.

The Court: On what ground?

Mr. Benoy: No bearing on the issues. I have four 314 cases which are applicable which held that under the relationship established by contract, you have a right to give such instructions as you care to. The agreement was to abide by any rules and instructions that the company might give them.

The Court: What is your objection, if any, to receiving this in evidence?

Mr. Benoy: It perhaps may be more to the weight of the evidence, if the Court please. I do want to save the point, what is your ruling on it?

The Court: What are the grounds for your objection, are those the grounds?

Mr. Benoy: Yes.

The Court: Overruled. It may be received in evidence and marked Defendant's Exhibit 1.

(Thereupon the document so offered in evidence was marked and received in evidence as DEFENDANT'S EXHIBIT 1, and is in words and figures as follows, to-wit:)

315 Mr. Stephan: Q. For how long a period did you operate this tractor-trailer after you took it over in December, 1940, from your brother?

The Court: To August, 1941?

Mr. Stephan: Some time in August, 1941?

A. Yes, sir.

Q. Did you sever your connection with the Greyvan Lines?

A. I did.

Q. In August, 1941?

A. Yes, sir.

Q. Were you required at the time of entering into this contract with Greyvan Lines to put up the $250 side bond you referred to here before, a fidelity bond.

Mr. Benoy: That fidelity bond was $1,000.

Mr. Stephan: Q. What is this bond, this cash bond?

A. The cash bond was taken out of each monthly statement.

Q. You were also required to give a fidelity bond, were you not?

A. Yes, sir.

Q. That was in the amount of $1,000?

A. I don't know.

Q. Did you have to pay for the fidelity bond, pre-
316 mium on that bond?

A. Yes.

Q. Now, in connection with any damages that might occur on a shipment that you might haul, who were liable for those damages?

A. I was.

Q. Have you had such damages occur in shipments that you have hauled?

A. Yes.

Q. Now, will you state to the court briefly how that was generally handled, that is, whether you reported it to the company or just how it was handled?

A. It was reported on the papers, who returned it from the shipper as a damage.

Q. To the place of destination?

A. Yes, sir.

Q. Did you have any occasion to pay the shipper direct for any damage that might have occurred?

A. I didn't, no.

Q. Well, then is it true to say in every case of damage you had in connection with the shipment you were handling that you did not pay the shipper direct but reported it to the company?

A. All damages I had was settled through the company.

317 Q. If any damages were subsequently charged against you by the company were they deducted from you in that check?

A. From my monthly statement, yes.

Q. Now when you severed your connection with the Greyvan Lines in August of 1941, did you make a full and complete settlement with them at that time?

A. No.

Q. Why not?

A. I got a settlement on my monthly statement, not my $250 I had up on account of other damages that might be pending. They wouldn't give me a settlement on it until the damages were settled.

Q. Well, did you subsequently make a settlement with the company, at a later date?

A. At a later date, yes.

Q. How much later was that?

A. Close to one year.

Q. Why was that settlement held up such a long time?

A. The only think I could find out why, was because settlement of the damage had never been made.

Q. You finally came to an agreement with the company?

A. They mailed me a check for the last settlement.

Q. And you accepted that in full settlement?

A. I did.

318 Q. Now, did you purchase a uniform when you went to work for the Greyvan Lines?

A. I did.

Q. Can you describe that uniform?

A. Pants and a jacket, cap and shirt.

Q. What color was the uniform?
A. Grey.
Q. An entire uniform, jacket and trousers?
A. Yes.
Q. Were you instructed at the time you became connected with the Greyvan Lines on this contract to purchase the uniform?
A. I was given to understand that that was the custom for all the boys.
Q. Well, did you talk with somebody, some officer of the Greyvan Lines about that?
A. I think that was brought up at the time of the schooling.
Q. Do you recall what official that was of the Greyvan Lines that talked to you about that?
A. No, I do not.
Q. Did any officer of the Greyvan Lines tell you where to go and purchase this uniform?
A. Yes.
Q. Where did they tell you to go?
319 A. Greenberg's on State Street.
Q. Then it is true you subsequently went to Greenberg's and purchased a uniform?
A. I did.
Q. Now in connection with this Manual which you just identified, stating you received it, did you read that Manual?
A. Yes.
Q. Did you carry it with you in your truck at all times?
A. Yes, sir.
Q. Were the rules and regulations laid down in this Manual enforced by the company?
Mr. Benoy: Object to it. I object to the testimony as far as he is concerned.
The Court: It is a pretty broad conclusion, yes. I will let you limit him.
A. Not all the rules. I tried to live up to them. I figured they were supposed to be enforced. That is the way I do on any of the rules they give me.
Mr. Benoy: I move that be stricken.
The Court: Yes, it may be stricken.
Mr. Stephan: Q. Well, is it true, when this Manual was handed to you by the company you interpreted that to be an instruction of the company to follow?

320 A. Yes, sir.

Q. Everything that was contained in this Manual?

Mr. Benoy: Object to it.

The Court:- Sustained. He testified that an official of the company told him with reference to it, what his interpretation was isn't proper.

Mr. Stephan: Q. Do you remember any conversation with any official of the company in connection with the time this Manual was given to you?

A. No.

Q. Did any official of the company talk to you about it?

A. I don't think any more than just handed me the book. The rest of the papers we were supposed to have at that time.

Q. Was any reference made to this Manual in your schooling course?

A. That all papers concerned the same thing.

Q. Subsequent regulations which you have seen in this Manual?

A. Yes.

Q. And you were furnished a list of the parking stations, were you not, by the company?

A. Yes.

Q. Were any instructions or regulations given to
321 you or issued in connection with parking in those stations?

A. Well really sort of in parking in those stations, because it was convenient for us and we bought our gas and what service we got to our equipment in the same station.

Q. Did you have a conversation with any official of the Greyvan Lines for the purchase of gas and oil, buying for your equipment at these stations?

A. Well, yes, buy what we could there, really to pay them for our parking, because we didn't pay for parking at those stations.

Q. Were you ever instructed to come into those stations with an empty tank?

A. I dont believe so by any of the Greyvan Lines officials.

Q. Did you employ a helper on your truck?

A. Most of the time I did.

Q. Was he a steady helper?

A. Yes.

Q. How did you pay him?

A. I paid him myself, the agreement between him and I.

Q. Was that helper permitted to drive a truck?

A. When I was on the truck.

322 Q. When you were not on the truck he was not permitted to drive the truck?

A. No.

Q. What regulation was that?

A. That was the Greyvan Lines regulations.

Q. Was there any occasion when you had any difficulty with the company in relation to a helper driving your truck?

A. There was one.

Q. Will you state that occasion?

A. Well, I wanted to let my helper deadhead the truck from Norfolk, Virginia, to Chicago, and I asked Mr. Parenti permission to do that and he wouldn't give it to me, because my helper wasn't approved by the Greyvan Lines.

Q. Why did you want the helper to do that?

A. My father had died and I had to leave. I didn't want to go back to get the truck.

Q. Did you communicate with the company and advise your father had died?

A. I did.

Q. And requested permission that the helper continue?

A. Yes.

Q. They refused to permit that, is that it?

A. Yes.

323 Q. Now as to the routes that you were to follow in handling the shipments, what instructions were given you by any official of the company of the designated routes you were to follow?

A. Not every trip.

Q. Can you recall any incident where they gave you specific instructions as to routes to follow?

A. Yes, to enter those States where we wasn't allowed to haul. I got instructions where to go through Kentucky and what to do and where to go around it.

Q. Why were instructions given as to the State of Kentucky?

A. We were overlength and overweight in that State.

Q. Have you ever stopped in Kentucky with your tractor-trailer?

A. I have.

Q. And what occurred?

A. Fined me for over-length and overweight and made me unload the load.

Q. But the load was subsequently taken out of the State of Kentucky?

A. I hired a local trucker to haul it to the state line.

Q. Then you picked it up from there and carried it from there on?

324 A. That is right.

Q. Who paid the fines?

A. Greyvan Lines paid the fines. I paid it at the time but I was reimbursed on it on my next statement.

Q. Who paid for the loading of this household goods on the other truck carried out of the state?

A. I paid for all of the labor on my truck.

Q. Were your reimbursed by the company for that?

A. No.

Q. Did you have your name and address painted on the cab of this tractor?

A. No.

Q. At any time during your operation?

A. At no time.

Q. Did you have any conversation with Greyvan Lines' officials concerning that?

A. No, I didn't know of any one that had their name on it at the time. I never gave it thought to ever have a conversation of that kind with them.

Q. You never saw any owner-operator truck that had the name and address of the operator on it?

A. No, sir.

Q. Were you required to buy a state license when you entered into this contract?

A. The original state plates.

325 Q. What state did you buy the license in?

A. Indiana.

Q. Where were you residing at the time?

A. Chicago.

Q. Well, why did you buy the license in Indiana?

A. At their request, I don't know for why.

Q. Did you sign the application?

A. Yes, that license was in my name.

Q. And you paid for that license?

A. Yes.

Q. Now, was it necessary for you to have license plate for other states?

A. Yes.
Q. Who furnished those?
A. The Greyvan Lines furnished them.
Q. Did you sign any application for those license plates?
A. No.
Q. They were simply handed to you and carried on your truck, is that right?
A. They were handed to me in the office or mailed out to me to some other destination.
Q. You never signed any application or paid any money for those plates, did you?
A. No, sir.
Q. Now, on your instruction sheet that you received
326 instructing you to pick up the shipments, did that instruction sheet contain the date on which you were to pick up the shipment, the date on which the delivery was to be made, is that true?
A. That is right.
Q. Did you follow these instructions?
A. Yes, sir.
Q. Unless there was a breakdown or something of that nature?
A. Yes, sir.
Q. In connection with loading a shipment held at a point of inception or the unloading of it at a point of destination, did any one from the company come to the premises and supervise the loading or unloading?
A. I find that most of the time the agent or salesman took care of that generally during that some time while I was loading.
Q. Did he make any suggestions to you as to the method and manner of loading?
A. No.
Q. But he would be on the premises?
A. Yes.
Q. Now, during the time you owned this tractor, did you ever do any work and the Greyvan Lines paid you as an employee?
A. Yes.
327 Q. Do you recall an occasion of that nature?
A. I did, one trip, on a company truck, left my truck, went over on the load and I was paid by the Company's check for that.
Q. Whose equipment did you use?
A. Greyvan Lines' equipment.

Q. Where was that, do you recall?

A. Detroit.

Q. Do you recall whether the Social Security tax was deducted or not?

A. It was, yes.

Q. Did you deduct any Social Security tax for the amount paid your helper?

A. No, sir.

Q. Did you ever indicate to the shipper, when you were called to pick up the shipment, that you were the owner of any part of the equipment?

A. No.

Q. Was there ever any discussion between you or any officials of the company as to whether or not the customer had to be apprised who the owner of the equipment was?

A. I don't know by whom, I can't recall of any.

Q. But you did have some such conversation as you recall, is that true?

328 A. Yes, sir.

Q. You don't recall who that was with, though?

A. No, I don't.

Q. Now Mr. Garrison, when you completed the haul and unloaded your furniture at destination, what did you do then?

A. If it was where they had a sub-office I would report to the office, if not I would call the Chicago office or send them a telegram that I was available for another load.

Q. That is where you had an office in the city?

A. Then we would report to that office.

Q. What did you do in case you were advised there was no load that was available?

A. Yes, sir.

Q. Did the company employ dispatchers or employees in any of these parking lots throughout the country, if you recall?

A. Not in the parking lots. The officers originally would bring in the papers to the parking lots without us then having to go in the city to get them lots of times.

Q. In the event you were at a hotel where the company had no branch office, how would you receive your instructions?

329 A. Western Union.

Q. Did you ever have occasion to take any students on your truck for a training course?

A. Yes, sir.
Q. How long was he on your truck?
A. I think about four weeks.
Q. At whose request?
A. Mr. Schertzberg, I believe is the man that asked me to take him.
Q. Did you pay that student?
A. Paid part of his salary.
Q. Who paid the balance, if you know?
A. Greyvan Lines, I suppose.
Q. Did you ever have occasion to lay off or take a vacation during the time on the contract period?
A. Laid off duty at times and at different places, but not to just take a vacation, when I wanted it at any time.
Q. Well, what was the method of doing that? You generally took it up with the dispatcher or how would you arrange that?
A. Yes, I would talk with the dispatcher.
Q. Did you have to get his permission?
A. Yes.
Q. Did you ever lay off and take a vacation without
330 the dispatcher's permission?
A. No, sir, never, not when there was a load available.
Mr. Stephan: That is all.
The Court: Cross-examine.

Cross-Examination by Mr. Benoy:

Q. Did you ever refuse to accept a load when it was tendered to you?
A. I might have threatened to refuse it, but finally wind up by taking it.
Q. You had that right, didn't you?
A. No, sir.
Q. Did you exercise it?
A. No, sir.
Q. On June 17, 1941, did you refuse a load at Dayton, which was tendered you there for Cleveland and deadhead back to Chicago?
A. Yes, sir.
Q. That is right, isn't it?
A. That part is right, yes, sir.
Mr. Benoy: That is all.
The Court: Any redirect examination?

331 *Redirect Examination by Mr. Stephan.*

Q. Have you got any explanation why you refused to take that load?

A. Yes, I told Mr. Parenti over the phone I wouldn't accept any other loads. I was quitting again on my own accord. At the time I quit I was talked out of it and went out for another month.

Mr. Stephan: That is all.

Mr. Benoy: That is all.

Mr. Stephan: Mr. Sahlgaard.

AAGE SAHLGAARD, called as a witness by the Defendant, after having been first duly sworn was examined and testified as follows:

Direct Examination by Mr. Stephan.

Q. What is your name?

A. Aage Sahlgaard.

The Court: How do you spell the first name?

A. A-a-g-e.

Mr. Stephan: Proceed.

The Court: How do you spell the last name?

A. S-a-h-l-g-a-a-r-d.

Mr. Stephan: Q. What is your address?

A. Home address?

332 Q. Yes.

A. 1435 North Hudson.

Q. By whom are you employed?

A. Standard Spring Company.

Q. How long have you been so employed now?

A. About fifteen years.

Q. What is your capacity around there?

A. Well, superintendent of the shop, complete.

Q. How long have you been such?

A. Since I started.

Q. Now, what kind of work does your company do?

A. Well, motor truck maintenance, repairs of springs, manufacturing, et cetera, brake work, and general truck painting, body repairs.

Q. You do painting work also do you not?

A. Yes, sir.

Q. In connection with your work for this firm have you had any occasion to do work for the Greyvan Trucking Company own trucks or owner operated trucks?

A. On both.

Q. On both?

A. Yes.

Q. I will show you two receipts which I will ask to have marked Government's Exhibit 7—

(Thereupon the document was marked as requested, Government's Exhibit 7 for identification.)

—and ask you whether you have seen those before?

A. Yes, sir.

Q. What are they?

A. Maintenance preventative inspections.

Q. How did these come into your hands?

A. The driver of each of these vehicles had them on their trucks complete.

Q. Well, what did they do, did they come in with these sheets and hand them to you?

A. They came in with the book complete and handed it to me at the time we were doing that type of work for them.

Q. And you took the book and tore out these items?

A. No, we assigned men in the shop for this type of inspection. We were going through each inspection and we would complete a carbon copy of each. The shop was furnished with two copies and one was left in the book.

Q. Now, you say these sheets were brought in by the drivers themselves?

A. That is right, sir.

Q. And did you check each item on the sheets?

A. I didn't, personally.

Q. I mean some one in your concern did?

A. That is right, sir.

Q. What was done after the inspection of the truck was made; it was checked against these sheets?

A. Well, after the repairs were required we checked them individually. If he was available, we called the Greyvan Lines' office for further instructions, if there were no repairs necessary, none were made.

Q. In checking these sheets did you make any distinction between company owned units and owner operator units?

A. None, other than mark the number of each vehicle.

Q. You did mark the number of the vehicle to identify it?

A. We did put the individual name on each.

Q. Did the Greyvan Company ever give you authority to do any work on a job as the result of the checking of these particular sheets where you knew the unit was owned by an owner-operator?

A. Not in so many words I don't believe, no.

Q. Never had any direct instructions?

A. No direct instructions. Legitimate repairs were made on individual owned and—

Q. Did the company generally send over an order before you commenced your work?

A. In some cases, some times some of these peo-
335 ple, some of these did nothing at all, and sometimes the Greyvan Lines, because the owner himself, if he was there would give us the instructions.

Mr. Stephan: Your Honor, I wish to introduce this as Government's Exhibit 7.

Mr. Benoy: I would like to see it.

The Court: Show it to counsel.

Mr. Benoy: What are you offering, just the form?

The Court: Any objection?

Mr. Stephan: I think not.

The Court: It may be received in evidence and marked Government's Exhibit 7.

(Thereupon the document was marked as requested Government's Exhibit 7 and is in words and figures as follows, to-wit:)

336 The Court: That is just one sheet?

Mr. Stephan: Two sheets which I will clip together, both being the same thing.

Mark this Government's Exhibit 8 for identification.

(Thereupon the document was marked as requested, Government's Exhibit 8 for identification.)

Mr. Stephan: Q. I will show you what has been marked Government's Exhibit 8 for identification and ask you if you have seen that before?

A. Yes, sir.

Q. What is that?

A. That is the physical inspection, such as the name on it, referring to the equipment that was used in the vehicle and the outward appearance and condition of the vehicle.

Q. And how did you have occasion—did you have occasion to use those forms?

A. The inspection—
Q. How did those forms come in to you?
A. They were in the same book.
Q. They were in the same book, Exhibit 7?
A. That is right.
Q. Did you make an inspection, indicating the
337 various items of it?
A. Yes, sir.
Q. Now I call your attention particularly to this exhibit and ask you if this exhibit does not refer to the inspection of a trailer of the company or a truck distinguished from the mechanical condition of a tractor?
A. This is the mechanical—
Q. This is an inspection of the interior?
A. Of the equipment that is used in the truck. In other words for their type of work.
Q. In making out the physical inspection report, did you make any distinction between the company owned trailer or the owner-operator trailer?
A. None other than the identification of the van or the owner.
Mr. Stephan: I wish to offer this as Government's Exhibit 8.
The Court: Any objection?
Mr. Benoy: No.
The Court: It may be received.
(Thereupon the document so offered in evidence was marked and received in evidence as Government's Exhibit 8 and is in words and figures as follows, to-wit:)
338 Mr. Stephan: You may cross examine.
Mr. Benoy: May I have those forms, please.

Cross-Examination by Mr. Benoy.

Q. When was it you were to do this particular character of work?
A. When?
Q. Yes?
A. As close as I can remember I would say around 1938, 1937 possibly, I don't think much after 1939.
Q. You have indicated that it was a short life proposition?
A. That is right, sir.
Q. Why was it abandoned, do you know?

A. Well, the individuals themselves, some of them didn't want it, and it was dropped of their own accord, and because of other reasons.

Q. This was a part of the safety program, was it not?

A. As I understood originally, yes, sir.

Q. Vans were checked either by you or by somebody else?

A. I imagine they did arrive at whatever period of time, that was some time, between the time of the
339 original agreement, after thirty days.

Q. That was because you were checking the whole vehicle, for what purpose?

A. For safety inspection and also to prevent road failures.

Q. Failure while the truck was out on the road?

A. That is right, sir.

Q. You were checking that for the purpose of preventing breakdowns?

A. Preventing failures.

Q. By "failure" you mean breakdowns on the highway?

A. That is right.

Q. So that you wouldn't have to go out on the highway and repair them?

A. That is right.

Q. Do you remember about when it was this was discontinued?

A. No, I can't definitely say.

Q. Now, of your own knowledge do you know whether there was a difference in reference to charges?

A. No.

Q. On those that belonged to the owner-operators, do they belong to the company?

A. No, sir.

Q. That is as far as your charges were concerned
340 there was no difference?

A. There was first a figure originally agreed on for making this inspection to cover the cost of labor and the cost of overtime and the man's time, or any other time.

Q. In other words, no repairs were made on this proposition?

A. No, sir.

Q. Now, suppose that you found repairs were necessary

and the van belonged to the owner-operator, then what was done?

A. In most cases the operator was there and told us to proceed or not.

Q. Would the owner operator himself bring it in, for your prevention test?

A. Yes, sir.

Q. Do you know whether the owner operator was charged for it or not?

A. I know for this reason to save him that particular money in that statement I checked the invoice to the Grey-van Lines to verify the amount.

Q. In other words, they paid them on their statement?

A. That is right.

Q. They came to you to see whether they were being charged more than you charged?

341 A. That is right.

Q. And what was the result of that?

A. In some cases—in all cases the statement corresponded to the invoices to the Grayvan Lines.

Q. So that of your own knowledge you know these inspections were charged to the owner-operator?

A. That is right.

Q. The owner-operators themselves brought the item in to you to inspect?

A. The owner-operator did.

Q. In many of the instances you know that he did personally bring them in?

A. In most cases.

Q. If they didn't there was some reason why they didn't.

A. They were usually not in the city.

Q. By that you mean usually not in the city, the owner-operator?

A. The owner-operator.

Q. You were going out to— strike that. You were going ahead with the check?

A. That is right.

Q. Now this Government's Exhibit 8 which is the physical inspection report pertains to the materials inside of the van?

342 A. Yes, sir.

Q. Or inside of the tractor, whichever it was?

A. That is right, yes, sir.

Q. And you were inspecting to see they were all there?

A. That is right.

Q. In the event you didn't find it on there, what did you do?

A. I might say I didn't know whether it was all there. I would report what was in the van. I had no previous record for listing the equipment. I didn't know, in other words, whether they had ten pads or one came in or not.

Q. The owner-operator got one?

A. The original sheet was left in the book, given back with the book in each truck.

Q. So that the owner could see it?

A. Yes, sir.

Mr. Benoy: That is all.

The Court: Any re-direct examination?

Mr. Stephan: That is all.

The Court: That is all, you may step down.

Mr. Stephan: Your Honor, the government has no more witnesses, but we have some exhibits 2 to 6, we have offered for identification.

Mr. Benoy: Now, counsel has asked us to produce 343 in court a copy of the application for identification. I assume you want a sample copy.

Mr. Miller: That is right.

Mr. Benoy: We will ask to withdraw this and ask leave to substitute a photostatic copy.

The Court: Leave granted.

Mr. Benoy: I have no objection to it being introduced.

Mr. Stephan: I wish to introduce Government's Exhibit 2 which has formerly been identified as Government's Exhibit 2, being the advertisement in the Red Book for August of 1937, with leave of court's permission to substitute a photostatic copy of said page.

Mr. Benoy: I will object as not having in the least any probative effect.

The Court: What do you want to bring out? Give it to the marshal, and let me look at it. What is it you want to bring out by this exhibit?

Mr. Stephan: Your Honor, we have some authorities later, of course, which we will cite in our brief showing the indication of these advertisements here are to the effect that the company owns and operates, holds itself out to the public as an operator of all of these trucks.

The Court: The Plaintiff's evidence is to that effect, they solicited business.

344 Mr. Stephan: Yes. Indicating they hold themselves out to the public as owners of the vehicles.

The Court: You tell me what you want, tell me yourself and I will get it quicker.

Mr. Miller: The Supreme Court in an Iowa case decided that case very largely on the strength of a similar advertisement of this character.

The Court: Well, do you contend that advertisements of this character are material to show whether or not these individuals are independent contractors or employees?

Mr. Miller: It shows the company is the employer, naturally so.

The Court: How does the advertisement show the company is the employer?

Mr. Miller: Well, in view of the fact that it states it is a national organization. It holds itself out as an organization. It is doing business itself, not doing it through independent contractors.

The Court: Well, I am inclined to agree it doesn't have a great deal of probative force, but I don't see that it will do any harm.

Mr. Benoy: Except it encumbers the record and somebody may have to pay for producing it.

The Court: How many of these did you put in?

345 Mr. Stephan: Just two, your Honor. The next one we are going to introduce will indicate better our point.

The Court: Let me see it, please. I will admit those. I don't know what force they have. You can argue the point in your brief. This is Exhibit 2 and Exhibit 3?

Mr. Stephan: Yes, your Honor.

The Court: They may be received in evidence and leave to substitute photostatic copies for the particular pages involved.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 2 and 3 and are in words and figures as follows, to-wit:)

346 Mr. Stephan: Your Honor, we wish to introduce Government's Exhibit 4, being the union contract.

The Court: Any objection?

Mr. Benoy: Yes. We object to that because it certainly can't be introduced against us on the theory of an admission against interest.

The Court: Any other objection?

Mr. Benoy: That is all.

The Court: Overruled. It may be received in evidence and marked Exhibit 4.

(Thereupon the document so offered in evidence was marked and received in evidence as GOVERNMENT'S EXHIBIT 4 and is in words and figures as follows, to-wit:)

347 Mr. Stephan: I wish to introduce Government's Exhibit 5, a photograph previously marked for identification.

The Court: Introduce both of them, 5 and the next one is 6. Any objection?

Mr. Benoy: When was that taken?

The Court: That is a good question.

Mr. Stephan: I can tell you from memory, about sixty or ninety days ago.

Mr. Benoy: It wasn't during the period of time, I would like to see if there is any difference, if your Honor please, there appears to be no substantial difference. The objection I might have to it is the fact that all of the deductions are not what seem to take—I assume, your Honor has that in mind, the general outline of the contour.

The Court: Yes, very well, what are they 5 and 6?

Mr. Stephan: 5 and 6, if your Honor please.

The Court: Exhibits 5 and 6 will be received in evidence. Any other exhibits.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 5 and 6 and are in words and figures as follows, to-wit:)

348 Mr. Miller: Yes, your Honor, we offer in evidence Government's Exhibit 9 which is a certified copy of an application filed by Greyvan Lines, Incorporated, before the Interstate Commerce Commission.

Mr. Benoy: Their application, continuing under the Grandfather clause.

Mr. Miller: That is right. That in itself would not

be asked for admission but we do bring it up with other data we have to have to make a complete picture.

The Court: Do you have the copies?

Mr. Miller: No, I am sorry, your Honor, I have just got this before I left Washington. I only had one set of copies.

Mr. Benoy: The only objection I have to it it encumbers the record.

Mr. Miller: That is true, your Honor, it is larger but it has to do with the matters involved.

The Court: Suppose you offer all you have and maybe then I can rule more intelligently after you have offered all the documents.

Mr. Miller: We offer in evidence Government's Exhibit 10 which is an exhibit attached to Government's Exhibit 9, attached in the application which was filed before the Commission. Now, there were a large number of similar exhibits attached to the application so that in 349 order to not encumber the record we only had a copy made of one.

The Court: What does that purport to show?

Mr. Miller: That is a waiver by one of the so-called owner-operators and isn't that true, I believe that is what it is, it was filed with the petition before the Interstate Commerce Commission.

The Court: A waiver of an owner-operator, a waiver of what?

Mr. Miller: A waiver of his rights to secure a permit.

The Court: The owner operator's rights?

Mr. Miller: Yes.

The Court: All right, offer the rest of the documents and I will hear what you have to say to all of them.

Mr. Miller: We offer in evidence Government's Exhibit 11, which is a true copy of a report and order by the Examiner of the Interstate Commerce Commission on the petition filed.

The Court: Of the Examiner's Report and order?

Mr. Miller: Of the Examiner's Report and order recommended by Mr. Garafolo, the Examiner on April 5, 1939.

The Court: What does that offer to prove?

Mr. Miller: Well, the materiality of that is indi-
350 cated by Exhibit number 13.

The Court: Offer all of them and I will hear you on all of them.

Mr. Miller: Exhibit 12 is a certified copy of the transcript of the stenographic notes of the oral arguments before the Interstate Commerce Commission made by Mr. Bowen, Attorney for the Greyvan Lines, Incorporated, referring to his position that would set forth among other things concerning the company's position as to the control exercised over the owner-operated vehicles. He stated the owner-operators were employees of the company and we contend that is admissible along with the other evidence. The evidence shows Mr. Schertzberg and Mr. Shearer were present. The allowing of this shows that their counsel made that presentation to the Commission.

Now, Exhibit 13 is a true copy, it is certified copy of the exceptions filed by the Greyvan Lines, Incorporated, to the report of the Examiner which was filed April 22, 1939 and filed by the Greyvan Lines, Incorporated, and we contend while much contained in this is not material, this particular issue relates to other things in the portion of this report which are very material and contains statements by the
351 Greyvan Lines which were admissions against their interests in which they specifically state that they exercised control over their employees. This report, if it becomes necessary I can show your Honor exactly what it contains.

The Court: Give me the next document.

Mr. Miller: The last was Government's Exhibit 14 is a certified copy of a report and order of the Commission filed and entered on March 15, 1942, in connection with the application of the Greyvan Lines, Incorporated, certificate of public convenience and necessity, and that is a copy of the Commission's report and audit, a certified copy.

Now, in that connection I might say that possibly that the Court might take judicial notice of that without having it introduced in evidence, but it will be convenient for the Court to consider and I have decided to offer it for that reason.

The Court: 9 to 14 constitutes what, in your opinion? That they are material documents from the files of the Commerce Commission, is that right?

Mr. Miller: That is right.

The Court: Concerning the items under investigation here?

352 Mr. Miller: That is right.

If your Honor would give me leave to point out—

The Court: No, I will hear the objections first, what objections, if any, do you have?

Mr. Benoy: Your Honor, they are perfectly new to me. I never saw them before. They are proceedings on the application under the Grandfather's clause before the Interstate Commerce Commission.

The Court: That is what counsel says.

Mr. Benoy: Now, I don't see what relevancy they have here on the question of whether or not these owner operators are employees or independent contractors of the Greyvan Lines.

The Court: Well, I think on an issue of this kind if the company is taking an inconsistent position in two separate tribunals of the government it is material to have that called to the Court's attention. Now, whether or not he is just inconsistent, or whether it is an entirely different position taken here, I can't tell until I review the documents. And I am not going to do that until I review the evidence, until I get all of it and get your briefs in. Then I will tell you as to the materiality.

Mr. Benoy: I can't tell either until I examine
353 them.

The Court: This is something you are going to discuss in your briefs. If you think it doesn't prove anything I hope you will tell me that in your briefs. Now, if it is not admissible, all of them, but they are apparently properly certified, I assume. All right.

Mr. Benoy: I am not objecting on that account, of course.

The Court: You have your objections to all the rulings of the Court. The Government maybe takes the position that the plaintiff has taken before the Interstate Commerce Commission—

Does the Government represent that the position taken by the plaintiff before the Interstate Commerce Commission is inconsistent with the position taken by the plaintiff here?

Mr. Miller: Yes, we do.

The Court: Relative to the status of these owner-operators?

Mr. Miller: Yes, we do.

The Court: Is that the purpose you are offering 9 to 14?

Mr. Miller: Yes.

Mr. Benoy: May I ask if that was taken preceding
354 this period or not?

The Court: That is a good question.

Mr. Miller: That was taken on April 22, 1939.

The Court: 1939, within the period under investigation.

Mr. Benoy: As of what date, with respect to operations as of what date? The operations under contracts were in 1935.

Mr. Miller: That is partly under consideration from 1932 to 1938, the Examiner's report shows that the evidence in this case shows, however, that the operations were under contract substantially the same—

The Court: We are concerned at present between 1937 and 1942.

Mr. Benoy: Well, that is right.

The Court: What period did the Examiners investigate?

Mr. Miller: Well from 1932 to 1938.

The Court: 1932 to 1938. Then only two years of this time are applicable.

Mr. Miller: That is right.

The Court: This evidence relates to those two years.

Mr. Miller: It does relate to those two years; furthermore, the evidence shows the contracts were the same
355 these two years.

The Court: If you find it does not you point it out in your brief, counsel. 9 to 14, inclusive will be received in evidence on behalf of the Government.

(Thereupon the documents so offered in evidence were marked and received in evidence as GOVERNMENT'S EXHIBITS 9 to 14, and are in words and figures as follows, to-wit:)

356 Mr. Miller: We have one more exhibit, 15. We offer in evidence as Government's Exhibit 15 the application for the plates which were just furnished me by counsel.

Mr. Benoy: No objection to it.

The Court: It may be received and marked Government's Exhibit 15.

(Thereupon the document so offered in evidence was marked and received in evidence as Government's Exhibit 15 and is in words and figures as follows, to-wit:)

357 Mr. Miller: May it be stipulated that they signed—

Mr. Benoy: It may be stipulated that this application and other similar applications were signed and sworn to by an officer of the Greyvan Lines, Incorporated.

The Court: Anything further on the part of the Government?

Mr. Miller: I believe that is all.

The Court: Defendant rests?

Mr. Miller: Yes.

(Thereupon the defendant rests.)

358 The Court: Any rebuttal evidence?

Mr. Benoy: May I have a moment?

The Court: Yes.

Mr. Benoy: If your Honor please, may I make this reservation? I have had no opportunity for going into this. I don't know whether anything else should be produced in connection with it or not, that is, in the way of documentary evidence and if I find there is additional evidence that should be supplied in connection with this particular matter I hope I may have an opportunity of putting it in, otherwise we are ready to close.

The Court: Well, I can't leave the gate open for you. If you find there is something you think should be introduced on the trial and you want to come in on a motion at that time I will rule on it. Now is your chance for rebuttal if you have any. Do you want to offer any at this time?

Mr. Benoy: I say I have had no opportunity at all. The government hasn't supplied me with any information about this thing.

The Court: I understand that. If you want to offer any rebuttal offer it now.

Mr. Benoy: None at this time, your Honor.

The Court: Very well. Does the plaintiff rest?

359 Mr. Benoy: We rest then.

The Court: The plaintiff rests. Let the record show.

(Thereupon the plaintiff rests.)

360 The Court: Now the date for briefs, how much time does the plaintiff want?

Mr. Benoy: In view of the necessity of going through all this material that has just been introduced I think I better take some time.

The Court: Whatever you think is necessary.

Mr. Benoy: I want to say to you I have already presented a brief in a case just exactly similar as this case in the District Court at Toledo and that Court found in my favor. It is now pending in the United States Circuit Court of Appeals for the Sixth Circuit. I have that brief prepared and I can leave a copy of it with your Honor at the present time if you desire it.

The Court: No, I will not read briefs piecemeal. We will get all the briefs in and I will review the evidence and the briefs together. If you want to attach that to your other brief you may do so if you care to. I want a brief in this case. I want your argument in this case prepared at the same time. I will give you all the time you want. How much time do you want for briefs and argument?

Mr. Benoy: May I ask how soon I will be able to get the record, particularly the copies of this material, and I will prepare a copy of everything.

361 The Reporter: I will complete the record Saturday of this week.

Mr. Benoy: All right.

Mr. Miller: These will be right in the record and you can look at them at any time.

Mr. Benoy: I think maybe it will take thirty days.

The Court: Thirty days you think will be sufficient?

Mr. Benoy: Yes.

The Court: Then the brief and argument of plaintiff will be on file with the clerk and a copy given to defendant's counsel within thirty days. Now, how long does the defendant want to answer the brief?

Mr. Miller: Thirty days thereafter.

The Court: Thirty days. And replication to their Answer and brief how long?

Mr. Benoy: Say fifteen.

The Court: Fifteen days.

Mr. Benoy: And if will be in quicker if I can get it in.

The Court: Then the record may show thirty days and thirty days and fifteen days for all briefs and arguments.

All exhibits received in evidence will be impounded
362 by the clerk. Leave to the parties for either side to withdraw them at this time or at any time hereafter upon receipt to the clerk, to be used in preparing their briefs. Leave to all parties to file photostatic copies in lieu of the originals. Any document offered and received in evidence, leave will be given to both parties to furnish a photograph, photostatic copies of all exhibits received in evidence.

Is there anything further necessary?

If not, the cause will be taken under advisement.

(Which was all the evidence offered or other proceedings had on the trial of the above entitled cause, to date.)

* * *

93 And afterwards on, to wit, the 27th day of July, 1944, there was filed in the Clerk's office of said Court a certain Memorandum of the Honorable William J. Campbell in words and figures following, to wit:

94 IN THE UNITED STATES DISTRICT COURT.

(Caption—43-C-10 & 276)

MEMORANDUM.

CAMPBELL, District Judge.

After a review of the briefs and arguments of counsel, the stipulation and exhibits offered at the trial, and my own notes of the evidence taken at the trial, I find the issues for the plaintiff.

Counsel for the plaintiff may prepare and file with the Court, in writing, within twenty days from the date hereof, proposed findings of fact, conclusions of law, and a draft of a form of judgment, consistent with the views herein expressed, delivering copies thereof to counsel for the defendant. Within twenty days of the receipt of such copies counsel for the defendant may prepare and file with the Court, in writing, his observations with reference thereto and suggestions for the modification thereof, delivering a copy of such observations and suggestions to counsel for the plaintiff. Within ten days thereafter counsel for the plaintiff may present to the Court, in writ-

ing, his reply to such observations and suggestions. Whereupon, the matter of making findings of fact, conclusions of law and a judgment herein will be taken by the Court without further argument.

CAMPBELL,
Judge.

July 27, 1944.

95 And afterwards on, to wit, the 9th day of September, 1944 came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Observations With Reference to Proposed Findings of Facts and Conclusions of Law and Judgment Decree Submitted by Plaintiff and Suggestions for Modification Thereof in words and figures following, to wit:

96 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

OBSERVATIONS WITH REFERENCE TO PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND JUDGMENT DECREE SUBMITTED BY PLAINTIFF AND SUGGESTIONS FOR MODIFICATION THEREOF.

Carter H. Harrison, defendant in the above-entitled cases, pursuant to the direction of the Court in memorandum opinion filed herein, without waiving objections to each and every proposed finding of facts and conclusion of law and the proposed judgment as tendered and filed by plaintiff herein, hereby submits the following observations with reference to said proposed findings, conclusions and judgment with suggestions as to modification thereof.

JUDGMENT ENTRY.

The proposed entry directing payment of the judgment out of the proposed appropriation from the Treasury of the United States is incomplete in that it does not provide in accordance with Section 842, Title 28, U.S.C. that no execution shall issue against the defendant in these cases.

97 PROPOSED FINDINGS OF FACTS.

11. Objection is made to the sentence beginning with "The word 'dummy'" because there is no evidence in the record that the names of these employees were unascertainable to plaintiff.

12. The statements in the first sentence are not supported by any competent evidence. There is no evidence that plaintiff operated under "a system" from 1930, to the present time, as is implied. Neither is there any competent evidence showing that the truckmen were all residents of the states in which plaintiff did business. The statement that it was impracticable for plaintiff to exercise control over the means and manner of the truckman's performance is not sustained by the evidence. Further this is immaterial as it is the right of control that governs rather than the actual exercise thereof. The statements relative to operations under the contracts are incomplete, inaccurate and misleading. The statement that all costs of operations were paid by the truckmen is an incorrect statement as the evidence shows that the plaintiff paid the cost of permits, certificates and franchise.

14. Objection is made to the statement that the method used by the Collector in arriving at the average wage was arbitrary and illegal. The evidence shows that the amounts of wages were not fixed in an arbitrary manner by the Collector but were determined after an agreement had been entered into between Deputy Collectors and Mr. Shearer, taxpayer's treasurer. Mr. Shearer testified that the amounts determined were fair although liability was denied. (Tr. 89.)

98 15. Objection is also made to the statement that the determination of the helpers' wages was arbitrary and illegal. The objections are made for the same reasons as set out under 14. The helpers' wages were determined on the basis of an agreement as to the amounts between taxpayer and Collector. There can certainly be nothing arbitrary about a determination by the Commissioner or Collector as to the amounts of wages where these amounts are agreed to by plaintiff.

16. This is a misleading and inaccurate statement and not supported by the evidence. Moreover, it is a conclusion of law rather than a finding of fact. The evidence shows only one instance of a partnership having a truck-

man's contract. See Government's brief (pp. 36-37). As we pointed out it is wholly immaterial whether some of the employees had a partnership relation among themselves. There is no legal reason why partners may not become employees of another firm or corporation.

19. There is no competent evidence from which the court can determine that each truckman carried an average investment of $5,000. The evidence does not show that the vans bore all the designations required by the federal and state regulatory acts of the residence of the owners. As a matter of fact the evidence showed at least one violation where the name and address of the owner operator was not inscribed on the cab or tractor.

22. This paragraph should be stricken because there is no competent evidence showing that the contract was adhered to by all the parties involved.

23. This paragraph should be stricken because there is no evidence showing that the identical contract was used prior to the advent of the Social Security Act. The other contracts are not before the Court and the evidence does not disclose their contents.

24. That portion of the paragraph beginning with "The degree of control, etc." should be stricken in its entirety since it is based entirely on matters not established by competent evidence.

25. The entire paragraph should be stricken. The amounts were fixed by agreement between the Collector and plaintiff's responsible officer and were therefore not determined in an arbitrary manner. The Collector had a reasonable basis for arriving at the amount of wages and the amount of [illegible] since the plaintiff had agreed that although it contested the liability the amounts allocated to wages were fair. The last two sentences represent conclusions and are capable of bearing different constructions. It is true that no wages were directly paid to helpers by plaintiff but it is our contention that the wages were paid to helpers through the truckmen who were under plaintiff's direction and control and that it is not necessary that the wages be paid direct to the helpers.

26. There is no evidence to sustain this paragraph and the same is wholly immaterial and beyond the issues in the case. The same should therefore be stricken.

100 CONCLUSIONS OF LAW.

5. This should be amended to provide that no execution shall issue against the defendant herein and that the judgment shall be provided for and paid out of the proper appropriation from the Treasury of the United States.

J. Albert Woll,
United States Attorney.

101 And afterwards on, to wit, the 26th day of September, 1944 came the Plaintiff by its attorneys and submitted in the Clerk's office of said Court a certain Answer to Defendant's Observation, etc., in words and figures following, to wit:

102 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

ANSWER OF PLAINTIFF TO DEFENDANT'S "OBSERVATIONS WITH REFERENCE TO PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND JUDGMENT DECREE SUBMITTED BY PLAINTIFF AND SUGGESTIONS FOR MODIFICATION THEREOF".

It would seem that the Government counsel in this particular case are the only ones still interested. The Department of Justice, in pending Ohio cases, has directed the Internal Revenue Department to make administrative refunds. The making of such administrative refunds is now in progress. A copy of the order of the Internal Revenue Department reversing its previous stand, on the strength of the decision in the Mutual case, is attached hereto. We, therefore, do not quite understand why counsel for the Government are burdening the court with these additional matters in view of the attitude so taken by the Internal Revenue Department. We feel it not out of place to call the court's attention to this phase of the matter.

We submit the following with respect to the observations referred to:

103 WITH RESPECT TO JUDGMENT ENTRY.

The provisions of Title 28, § 842, providing that when the court certifies that there was probable cause for the act done by the Collector, or that he acted under the direction of a proper officer of the Government, "no execution shall issue against such Collector" but that the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury is self-executing. There is no occasion or need to insert in the entry a provision "that no execution shall issue against the defendant in these cases." Such a provision constitutes no proper part of the findings or of the judgment entry. The statute makes full provision.

WITH RESPECT TO THE OBJECTIONS TO THE PROPOSED FINDINGS OF FACTS:

We answer with respect to the paragraphs objected to in the order in which objection has been made.

11. There is ample evidence that the names of these so called employees were unascertainable by the Collector. Because of the absence of any records with respect to the employees of the independent contractor (the truckmen), the Collector was required, in Exhibit G, Sheet 26, to write the word "Dummy" in the column of the enforced return headed "Name of Employees". The only reason he did so was that the names of the alleged employees were unascertainable. Greyvan had no record with respect thereto. They were not Greyvan's employees and there was no occasion or opportunity to keep such a record. They were paid by the truckmen employing them and were in all respects the truckmen's employees and no report whatsoever was made of their employment to Greyvan Lines. They were not only unascertainable by the Collector but by the plaintiff as well. See the Agreed
104 Statement, Paragraph 7, also Paragraph 8 (b), where the Government's counsel stipulated that these persons were "unknown helpers, so used by the truckmen". See also Shearer's testimony p. 76, 77, 82, 83.

It was because of the fact that the names and addresses and the amounts paid by the truckmen to these persons were unascertainable that the Collector was compelled to arbitrarily arrive at the amount of alleged wage to be

put into the enforced return in the column, "Correct amount of Wages", as stipulated in Paragraph 8 (b).

It will be noted that the Government's counsel still notwithstanding the Court's finding, insist on calling these persons "employees" of Greyvan.

12. The whole of the record suports the requested finding. These contracts have been made ever since Schertzberg's connection with the company in 1931. (p. 134) See particularly Mr. Shearer's testimony at page 75 and Mr. Schertzberg's testimony at pages 153 *et seq.*; the whole of the testimony of Mr. Prante, pages 95 *et seq.*, the contract itself, plaintiff's Exhibit A and particularly Government's Exhibit 14 which it introduced over our objection. This Exhibit gives the entire history of the operations of the company since organization.

Permits and license fees, while a cost chargeable to the business as a whole, are no part of the cost of the "operation" of the equipment owned by the truckmen. Those matters are taken care of in our proposed findings, Paragraph 17.

The statement that our proposed findings "relative to operations under the contracts are incomplete, inaccurate and misleading" is entirely unjustified. Knowing the facts quite well, we have followed as closely as may be possible in preparing the proposed findings the agreements contained within the contract. Many of such misstate-
165 ments are made throughout the "objections", but we do not pay separate attention thereto.

14. The illegal method in arriving at the assessment in this case furnishes the evidence that it was arbitrary. For the Collector to arrive at a valid assessment, he must have an employment on a wage with respect to which to assess the percentage tax referred to in the statute. He cannot remake a taxpayer's contract and set up an alleged wage produced by his own calculations when none in fact existed. If such conduct is not arbitrary, we do not know the legal import of the word. The fact that the tax assessed was equal to or less than that which would have been assessable on a wage basis, had a wage been paid, is beside the point.

15. The same observations as set forth under Paragraph 14 are applicable. There was no determination of this tax upon "an agreement as to the amount between the taxpayer and Collector". Whatever any such arrangements may have been, (See Rec. pp. 89, 90) it is

entirely beside the point because the statute did not levy a tax on Greyvan Lines with respect to these independent contractors or their employees. The company, at all times, objected to the assessment of a tax and certainly no agreement between an examiner and the Treasurer of Greyvan can take the place of the statutory obligation. There was no consideration for an agreement; no approval of the Board of Directors, and no authority shown, or in fact existing, authorizing the making of an agreement. Here as throughout the case, counsel for the Collector are grasping at straws.

16. Counsel attempt to reargue their case here, as well as elsewhere. Partnerships are not assessable under the act. Partnerships, to a limited extent, did exist among the truckmen. The statement is one of fact, although, in certain respects it may also be a legal conclusion. 106. There cannot be little objection to its being included in the statement of facts even if that be so.

19. See Record p. 40, 48. Added to the cost of the tractor and semi-trailer is the cost of the pads (Exhibit A, Contract S1) and other equipment necessary to properly conduct the transportation business, which required an investment of better than $5,000.00.

The contract requires the truckmen to meet all obligations required by the ICC and laws of the several states (§§12, 13) which comprehends a display of license plates on the vans. The Court well knows that, without those designations, the equipment could not be operated. It is the presumption that that was done which is required to be done. This presumption is not broken down by showing that one particular owner did not have painted on his tractor his name and address which the Illinois law required (R. p. 118). (See *Magruder, Collector* v. *Yellow Cab Co.*, 141 Fed. (2d), 324). The Court may refer to the photographs of Greyvan's vans introduced in evidence (Exhibits 5 & 6) for supporting evidence showing the display of such designations.

22. We introduced sufficient of the books and records of the company, in connection to their accounts with the several truckmen to fully support this finding. (Exhibits B to K). The Government produced nothing to the contrary.

23. To the contrary, see the evidence at p. 124; and also pp. 49, 70, 75; and specifically Schertzberg's testimony, p. 124; and also specifically sheet 3 of the Govern-

ment's Exhibit 14, offered in evidence over our objection which details the history of all of these contracts and which were found by the Interstate Commerce Commission to be of a similar character.

Even Mr. Garofalo, Exhibit 11, Sheet 4, says:

"A copy of a contract form, which it is alleged is the form at present (April 5, 1930) used by the parties, 107 was introduced in evidence. * * * except for certain changes made therein, from time to time, this form of agreement has been used continuously since 1931."

24. The facts clearly establish what is set forth in the proposed finding. It was the finding of Judge Kloeb in the Mutual case in Paragraph 20 of the Findings of Facts filed by him in that case, copy of which has heretofore been furnished by us to the Court.

25. The proposed finding is fully supported by the evidence. We have already treated of this same subject in Paragraph 15, *supra*. There was no wages paid and the Collector had no legal right to convert contract payments into wages and to tax any portion of contract payments. Counsel again are attempting to reargue this case with respect to this objection. A similar finding was made by Judge Kloeb in the Mutual case, Paragraph 22 of the findings.

26. This proposed finding is not immaterial. It shows the arbitrariness with which the Collector has acted. In connection with several of the Ohio cases wherein administrative refunds are now being made, the Department has required affidavits with respect to the very finding here involved. Such affidavits so required must show that no part of this tax was collected from the alleged employee.

WITH RESPECT TO THE "CONCLUSIONS OF LAW".

1. The statute is self-executing and there is no reason for including within the judgment any provision with reference to prohibiting the plaintiff from issuing an execution against the defendant Collector. The statute is for his protection, but certainly is not meant to prohibit the plaintiff from having recourse against the Collector in the event the Treasury fails to pay from the appropriation. At any rate, the statute is self-executing.

OBJECTIONS TO DEFENDANT'S PROPOSED FINDINGS OF FACTS.

We shall respond to each paragraph separately:

1. The proposed Findings of Facts tendered by the Government is a one-sided affair. The Government refused to enter into any stipulation of agreed facts, except as to the Collector's side of this whole matter. The findings they now propose would be incomplete on their face and would take care of only the Government's side of the controversy.

2. The only statement of fact found in this paragraph is that, during the years mentioned, plaintiff operated under contracts with individuals, a sample of which contract was introduced in evidence. The latter statement is far from being a finding of fact.

3. The paragraph is a statement of what the evidence purports to show with reference to the contracts and their contents. It is wholly incomplete.

4 and 5. Again the Government proposes only to show what the evidence disclosed. The Court obviously came to the conclusion that the evidence so offered did not effect the non-employment relationship which the plaintiff maintained as to the truckmen involved. The matters of evidence recited in the proposed finding of facts is aside from the purpose of such findings.

6. This is another attempt to substitute what is called an agreement with an unauthorized employee of the plaintiff, a tax where none was imposed by the law. Mr. Shearer's conversation was no more than an acquiescence that, if the company was taxable, the amount used was fair. He said "I agreed that the figure they have set out is a fair figure, but acknowledge no liability for the company." (p. 89)

109 The Court, (page 90) in answer to an objection to that question indicated that he would draw the conclusion whether there was a wage or not. There could have been no agreement that the figures the Collector used "were correct". The point is that they were fair to the taxpayer, if the Court arrived at a conclusion that the plaintiff was taxable as an "employer" of the independent contractors involved.

The proposed finding in this paragraph is far from being correct, as the Treasurer of the Company had no authority to commit the company to any agreement, when the statute imposed no liability for the tax.

7. The only statement of fact involved is that the plaintiff filed an application before the Interstate Commerce Commission for the issuance of a certificate of public convenience (not conveyance) and necessity. Reference is made to what was introduced in evidence as Exhibit 9, which is not a finding of fact. The fact that the plaintiff filed a verified application is not a fact within the issues of the case, and the Exhibit was merely used as an attempt to impeach the witness and show an inconsistency in the position of the plaintiff in the two proceedings. The attempt failed miserably.

8. Another attempt to impeach, which was not either appropriate or successful. Garofalo's findings were no impeachment on the plaintiff's witnesses; and, in addition, to that they were later set aside by the Commission itself. It is only a recitation of impeachment evidence and, therefore, not proper as a finding of fact. The situation is quite similar to trying to impeach a witness by showing the opinion and finding of a lower court, which has later been reversed by an appellate court.

9 and 10. Another attempt at impeachment evidence with respect to a legal conclusion, wholly collateral to the issues presented in this case and is not entitled to the status of a finding of fact in this case. The proposal presents no fact bearing on the issues involved.

11. A part of the attempted impeachment evidence all of which is immaterial to the issues involved. Full disclosure of the company's method of operation was made to the ICC and its permit was granted notwithstanding. This is in accordance with the interpretation of the Motor Carrier Act by the ICC and the Courts as found in the cases cited in our briefs.

Our proposed finding of facts is a logical and correct presentation of the factual issues found in entire case and we respectfully submit that the Court should adopt that finding.

Respectfully submitted,

Wilbur E. Benoy,
2910 A. I. U. Building
Columbus, 15, Ohio

George T. Christie,
2737 Board of Trade Building
Chicago, 4, Illinois

Attorneys for Plaintiff.

111 TREASURY DEPARTMENT

Office of Commissioner of Internal Revenue

Washington 25, D. C.

A&C—Mimeograph
Coll. No. 5722

July 22, 1944.

Status of Certain Truck Drivers for Federal Employment Tax Purposes.
(A&C—Mimeograph Coll. No. 5641 Revoked)

Collectors of Internal Revenue:

1. In the case of the Mutual Trucking Co. *vs.* U. S., decided by the United States Circuit Court of Appeals for the 6th Circuit on April 7, 1944, it was held that owner operators of equipment engaged in interstate hauling were not subject to such direction and control by the lessee of the equipment to constitute an employment relationship for the purpose of imposing the taxes prescribed by Titles VIII and IX of the Social Security Act, the Federal Insurance Contributions Act, and the Federal Unemployment Tax Act. The Bureau has accepted the decision of the court as controlling in all cases involving the services of owner drivers.

2. It is now the position of the Bureau that generally owner drivers will be considered to be independent contractors for employment tax purposes. However, where evidence of direction and control such as that stated in S. S. T. 403, C. B. 1940-2, 250, are present an employment relationship should be considered to exist.

3. The owner of the truck will be considered to be the employer of any driver or helper he may engage unless the evidence clearly indicates he has surrendered his right to control the driver hired by him to the person for whom the services of the driver are rendered and the driver in fact is paid by such person.

4. Mimeograph 5641, dated February 24, 1944, is revoked.

5. If doubt exists in any case, the facts should be presented to the Bureau with a request for a ruling.

6. Inquiries relative to the contents of this mimeograph should refer to the number thereof and to the symbols, A&C:RR.

Harold N. Graves,
Acting Commissioner.

112 And afterwards, to wit, on the 13th day of October, 1944, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

113 In the District Court of the United States.

(Caption—43-C-276)

FINDINGS OF FACTS AND CONCLUSIONS OF LAW.

The court finds the facts herein are as follows:

1. Plaintiff, Greyvan Lines, Inc. is a corporation organized and existing under the laws of the State of Indiana and has its office and principal place of business in Chicago, Illinois. The company was incorporated February 23, 1929. Plaintiff is a common carrier engaged in the business of transporting, by motor truck, household and certain other goods throughout thirty-eight states of the United States, and in certain Provinces of Canada. It is duly authorized to conduct said business in the United States under the grandfather clause of the Motor Carrier Act of Congress and under the applicable regulatory acts and regulations of the several states of the United States. Plaintiff is certificated both by the Interstate Commerce Commission and the regulatory authority of the various states as operating over irregular routes. It duly filed its tariff charges with said Commission.

2. Carter H. Harrison, the defendant, hereinafter referred to as "Collector", at the times stated in the complaints was the duly appointed, qualified and acting Collector of Internal Revenue for the First District of
114 Illinois. The Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended

and supplemental tax returns for the plaintiff under the Federal Unemployment Tax Act (formerly Title IX of the Social Security Act) for the years 1937, 1938, 1939, 1940 and 1941. Thereafter the Commissioner of Internal Revenue, in October 1942, assessed the plaintiff with additional tax, interest and penalty in the following amounts:

Period	Taxes	Interest & Penalty
1937	$ 2864.44	$ 808.64
1938	3358.57	746.61
1939	3918.31	835.94
1940	4432.47	453.44
1941	929.97	85.71
	$15503.76	$2730.34

Total additional tax, interest and penalty assessed and paid under the Federal Unemployment Tax Act being in the sum of $18,234.10.

3. The Collector, in the year 1942, acting under Section 3612 of the Internal Revenue Code, and the authority conferred on him thereunder, executed amended and supplemental tax returns for the plaintiff under the Federal Insurance Contributions Act (formerly Title VIII of the Social Security Act) covering the month of November and December 1937 and the years 1938, 1939, 1940 and 1941 and the months of January, February and March of 1942. Thereafter, the Commissioner of Internal Revenue, in August of 1942, assessed the plaintiff with additional taxes, interest and penalty as follows, to-wit:

Period	Taxes	Interest and Penalty
1937 (Nov. & Dec. only)	$ 381.48	$ 105.21
1938	2235.68	477.64
1939	2606.22	456.67
1940	2954.98	340.19
1941	3296.72	182.16
1942 (1st quarter)	882.74	16.29
Total	$12357.82	$1578.16
Additional Interest		56.11
		$1634.27

115 Total additional tax, interest and penalty assessed and paid under the Federal Insurance Contributions Act being in the sum of $13,992.09.

4. Said Collector determined that plaintiff had paid during the periods aforesaid, in addition to the amounts reported in the company's returns previously made by it, taxable wages upon which the foregoing taxes, interest and penalty were due and which were assessed in the several amounts herein before set forth.

5. The additional assessment, under the Federal Unemployment Tax Act (Title IX) in the total amount of $18,234.10, including accrued interest and penalty having been made, a Notice and Demand in Form SS17 of the Treasury Department, Internal Revenue Service, for the payment of said tax was served upon the plaintiff; and on the 30th day of October, 1942, plaintiff paid to defendant said tax, interest and penalty in the said total amount of $18,234.10.

6. The additional assessment, under the Federal Insurance Contributions Act (Title VIII), together with the interest and penalty, amounting to $13,992.09, having been made, Notice and Demand on said Form SS17 for payment of said tax was served on the plaintiff; and on August 12, 1942, plaintiff paid to defendant the sum of $2713.32, and on September 25, 1942, the sum of $11,278.77, making a combined total paid to defendant under said assessment of $13,992.09.

7. Plaintiff duly filed on Form 843, Treasury Department, Internal Revenue Service, being the form provided for that purpose, with said Collector, claims for refund of the several amounts of tax, penalty and interest so paid, claiming the same to have been wrongfully and illegally collected. Thereafter, plaintiff was notified of the disallowance of said claims for refund, after the receipt of
116 which notices of disallowance, the plaintiff commenced these actions for the recovery of said taxes, interest and penalties so paid.

8. These actions arise under the Act of Congress known as the Social Security Laws, passed August 4, 1935, Title VIII and IX, Sections 801 et seq. and Sections 901 et seq. and under subchapters (A) and (B) of Chapter 9 of the Internal Revenue Code of 1939, §§ 1400 et seq., and the amendments thereto, respectively known as the Federal Insurance Contributions Act and the Federal Unemployment Tax Act.

9. Plaintiff, during the times referred to herein was an "employer" within the meaning of said acts of Congress and duly returned under the provisions of said act to the authorities entitled to receive the same, reports of the amount of wages paid to its employees and duly paid the amount of taxes assessable on the said returns. The "wages" set forth in the amended and supplemental returns on which it was claimed additional taxes were due represented fractions of contract payments made by plaintiff to owners (hereafter designated "truckmen") of motor equipment contracted to plaintiff, and wages paid by said "Truckmen" to their own employees.

10. Said amended and supplemental returns so filed by the Collector, except as found in Paragraph 11, set forth specifically the names of persons and partnerships (the Truckmen) with respect to whom said Collector claimed that additional taxable wages had been paid by plaintiff, together with the additional amounts found by the Collector to have been so paid during the periods involved. The Court finds that the Truckmen so named in said amended and supplemental returns were not employees of the plaintiff and that the Truckmen so named in said supplemental returns had no employer-employee relationship with plaintiff, but were independent contractors.

117 11. In the said amended and supplemental returns the Collector, except as found in Paragraph 10, listed under the heading, "Name of Employee", the word "Dummy"; and under the heading, "Correct Amount of Wages", certain sums, and plaintiff was assessed tax, interest and penalty thereon. The word "Dummy" referred to certain unnamed and unascertainable employees of the Truckmen. Plaintiff occupied no employer-employee relationship with respect to such unknown employees of said Truckmen.

118 12. Plaintiff, as early as the year 1930, developed a system whereby the transportation of household goods and other commodities, entrusted to it for transportation, was contracted to suitable, responsible owners of motor vehicle equipment, designated in the contract as "Truckman". Such Truckmen were residents of the several states in which the company did business.

The Truckmen travelled long distances from the plaintiff's place of business in Chicago and were on the road for long periods of time by reason of which, it was

impracticable and impossible for the plaintiff to attempt to exercise control over the means and manner of the performance of such transportation and the loading and unloading of such goods into and from such motor vehicle equipment. Plaintiff, during the periods involved in the assessment, entered into written contracts with the owners of such equipment under which contract the Truckmen furnished the motor vehicle equipment, paid all expense of its operation; furnished the paraphernalia needed for the proper loading and unloading and transportation of said household goods or other commodities; furnished the necessary packing and crating materials; furnished all labor necessary; hired, fired, managed and paid such laborers; and was paid, as full recompense and remuneration therefor, a percentage of the predetermined tariff charges for such transportation. Payments to which the Truckman was entitled were determined by a schedule attached to the contract and payments were made monthly. The basis of division to the Truckman was 50 to 52½% thereof, plus, under certain conditions, a maximum allowable bonus up to 3% of the tariff charges.

13. Employment by the Truckmen of laborers, referred to as "helpers", was often necessary in the pickup and
119 delivery of the goods, for loading and unloading the goods into and out of the truck. Under the contract, the Truckman had the option of performing this labor himself, or of employing others to do it for him. Whenever goods were required to be loaded or unloaded, the Truckman might, if he desired, employ labor at the point of such loading and unloading for such purpose, and only supervise and direct the loading or unloading; or he might do part himself and hire the rest done. The plaintiff has no record of either the names of such Truckmen's employees, or the amounts of wages paid them by the Truckmen. The plaintiff had no contact with helpers engaged by the Truckmen. Such helpers were so engaged by the Truckmen at various points over the several states where loading and unloading might become necessary in the course of such transportation business. At times such labor was obtained from established warehouses, and such warehouses were paid by the Truckmen therefor.

14. As to the Truckmen, the plaintiff's records showed evidence of the total amount of the contract payments to them. Said Truckmen were not employed on the basis of a

wage with respect to employment and no record of wages paid to the Truckmen was, by reason thereof, available. The Collector determined that, if the Truckman was an employee, he would be paid for 44 weeks of the year on the union wage scale of $36.00 per week for the period preceding January 1, 1942, and thereafter on the same basis at the rate of $42.50 per week. The Collector thereby arrived at a claimed average wage, to January, 1942, for the Truckmen of $132.00 per month and $155.00 per month thereafter, and used said amount as a basis of "wage" for assessment of the tax. Said determination was arbitrary and illegal.

15. As to the unknown helpers employed by the 120 Truckmen as set forth in Paragraph 13, the Collector determined that the helpers' wages would be 41.67% of the amount determined and set up by him as the Truckmen's "wages" and, on this basis, set forth the calculated amounts in each of the amended and supplemental returns for the several periods under the heading "Correct Amount of Wages". The total so assumed and calculated as wages on which the tax was thus assessed, amounted to $181,886.00. Said determination was arbitrary and illegal.

16. Certain of said Truckmen were partnerships and the contract payments to them were not assessable under the Social Security Act.

17. Said Truckmen attached to their equipment the Interstate Commerce Commission plates required by the regulations of the Interstate Commerce Commission which were furnished and paid for by plaintiff; plaintiff paid the cost of licenses required in states other than the residence of the Truckmen, but, otherwise, the Truckmen operated under the various state license plates and drivers license required by the state of their respective residences, which were procured at their own expense; they hired, paid, managed and discharged any persons employed by them to assist in performing their contracts; they carried and paid for their own vehicle insurance covering fire, theft and collision damage. The cargo and public liability policies required by the rules of the Interstate Commerce Commission and of the several states through which they travelled was provided by plaintiff in the form required by the Interstate Commerce Commission and by the regulatory bodies of the several states in which said vehicles were operated. The cost of liability insurance was charged to the Truckmen and thus paid for by them.

18. Plaintiff maintains an organization to solicit business and sales agencies, in many of the larger cities,
121 but does not have representatives in each city, town and hamlet or other place to which it may be called to pick up or deliver household and other goods. Except in event of prepayment of tariff charges, or where deliveries are made to shippers or consignees having a predetermined credit rating, the Truckman is obliged to collect the tariff charges before making delivery. Such collections are in varying amounts, many of which exceed $500.00. The Truckmen are, by the contract, required to give bond in the penal sum of $1000.00, covering the Truckman and his approved substitute drivers, for the faithful accounting of such collections.

19. No specification is made by plaintiff as to make and character of equipment furnished; but no contract is made with the owner of equipment having less than a minimum carrying capacity. The equipment so provided by the Truckman, when new, carries an average investment of $5000.00. Each van bears the designation "Greyvan Lines", with company serial number and all designations required by the federal and state regulatory acts of the residence of the owner.

20. The Truckman must account to the company for the value of any or all loss or damage to the goods, wares and merchandise, occurring while the same are in his custody, possession or control, other than such as are covered by insurance. The company charges to the Truckman's account any loss, damage or expense which it may sustain because of his agreement contained in the written contract to indemnify the company against loss in operation. To guarantee such payment he is required to make and keep a cash deposit of $250.00. The Truckman pays all bridge tolls or other expenses incurred in the transportation; pays any fines for violation of the traffic laws and regulations for which he is responsible; and he chooses his own
122 routes for the delivery of goods and merchandise, except in such instances as he or the company may be restricted by local rule or regulation.

21. The Truckman, before a particular trip was begun, was furnished with the "Drivers Daily Logs" required, by the regulations of the Interstate Commerce Commission and the various regulatory bodies of the states through which the plaintiff operated, to be kept for safety and other

purposes; a "freight bill", and "bill of lading" as required by the Motor Carrier Act; and written instructions for the delivery of the merchandise, giving place and time of delivery. These, or the appropriate copies, are mailed in, or surrendered to, the company at the conclusion of the transportation service.

22. The provisions of the contract were adhered to by the parties thereto.

23. The form of the contract was devised and used prior to the advent of the Social Security Act in 1936 and there was no effort of tax evasion on the part of the plaintiff company.

24. The relationship of employer and employee did not exist between the plaintiff company and the Truckmen or between the persons employed by the Truckmen to assist them in either the transportation work or in loading or unloading. The Truckman was engaged in a business of his own, carried on by means of the use and operation of his own equipment for a lump sum paid in accordance with a pre-arranged schedule, out of which the Truckman paid those whom he hired to assist in his driving, loading and unloading. Any surplus remaining to the Truckmen from the payments made to them by plaintiff was retained by the Truckmen, and if there was any deficiency, the loss was theirs. There was no obligation on their part to ac-
123 count to plaintiff for all or any part of such payments.

The degree of control over the hiring, paying, managing and discharging of his employees clearly stamped the employer-employee relationship as existing only between the Truckman and his employees. No control, by plaintiff, over the Truckman or his employees in any way inconsistent with the contract provisions existed. Such directions as are shown to have been given the Truckmen were centered about the requirements provided by law for safety to the public and the safe transportation and delivery of the goods entrusted to plaintiff's custody.

25. The amount so assessed was an arbitrary sum, arbitrarily arrived at. Plaintiff had neither the authority nor duty of paying the persons employed by the Truckmen to assist them in the work. The plaintiff had no power or authority, under its contract with the Truckmen, to require the latter to make an accounting of the wages paid their employees. Plaintiff maintained no records respect-

ing those employed by the Truckmen and the Collector had no means of arriving at a basis for levying the tax. The plaintiff collected from the persons named or unnamed in the amended and supplemental returns no part of the tax which might have been assessable against the Truckmen for those employed by the Truckmen and had no right or authority to do so. The plaintiff paid to the employees of said Truckmen no amounts whatever, either as wage or otherwise. The plaintiff paid to said Truckmen no wages for personal service upon which any tax could be computed under said act.

26. The Collector, in preparing the amended and supplemental returns was unable to obtain, and did not obtain, the Social Security numbers with respect to those claimed by him to have been employees, whether or not specifically named in the returns, and it was not possible to
124 credit any contributions exacted from plaintiff under Title VIII of said Act to any individual.

27. The court finds that the Collector, in making said collections, acted under the directions of the Commissioner of Internal Revenue.

CONCLUSIONS OF LAW.

The Court states the following conclusions of law:

(1) The Court has jurisdiction of the parties hereto and the subject matter hereof.

(2) During the periods involved in the amended and supplemental returns, plaintiff was not the employer of the persons so named, either specifically or otherwise, in said amended and supplemental returns. The Truckmen specifically named in the amended and supplemental returns were independent contractors, and plaintiff was a principal. The persons included in the amended and supplemental returns under the designation of "Dummy" were the employees of the respective independent contractors, and not employees of the plaintiff.

(3) The taxes, penalty and interest so assessed against the plaintiff and paid, and for which recovery is sought, were erroneously and illegally assessed against, and collected from, the plaintiff; and the plaintiff is entitled to recover the same, together with interest thereon, as prayed for in its complaints.

(4) The plaintiff is entitled to judgment against the defendant, Carter H. Harrison, individually and as Collector of Internal Revenue, in the sum of $32,226.19, with interest at six per cent on the respective amounts hereinafter stated:

On $2713.32 from August 12, 1942, to date of payment;
On $11,278.77 from September 25, 1942, to date of payment;

125 On $18,234.10 from October 30, 1942, to date of payment.

(5) The Court finds, pursuant to Title 28, Section 842, United States Code, that said amounts should be provided for and paid out of the proper appropriation from the Treasury of the United States.

Enter:

Campbell,
District Judge.

October 13, 1944.

126 And on the same day, to wit, the 13th day of October, 1944, being one of the days of the regular October term of said Court, in the record of proceedings thereof in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

127 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

JUDGMENT ENTRY.

This cause having been submitted to the Court without the intervention of a jury, and the Court having filed herein its finding of facts and conclusions of law, and having found that the plaintiff is entitled to judgment against the defendant, and coming now to enter the appropriate judgment, it is ordered that the Clerk forthwith enter the following judgment of record:

It is ordered and adjudged that the plaintiff, Greyvan Lines, Inc., a corporation, do have and recover from the defendant, Carter H. Harrison, individually and as Col-

ector of Internal Revenue, the sum of $32,226.19, together with interest on the respective amounts hereafter stated as follows, to-wit:

On $2713.32 from August 12, 1942 to date of payment;

On $11,278.77 from September 25, 1942 to date of payment;

On $18,234.10 from October 30, 1942 to date of payment.

Plaintiff's costs herein incurred or expended shall be taxed by the Clerk.

Defendant excepts.

The Court finds, pursuant to Title 28, Section 842, United States Code, that the defendant, in making the collection of said taxes, interest and penalties, acted under the direction of the Commissioner of Internal Revenue and that the amount of this judgment should be provided for and paid out of proper appropriation from the Treasury of the United States.

Enter:

Campbell,
District Judge.

Oct. 13, 1944.

129 And afterwards, to wit, on the 9th day of November, 1944, being one of the days of the regular November term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

130 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43 C 10 & 276)

AMENDED JUDGMENT ORDER.

This cause having been submitted to the Court without intervention of a jury and the Court having filed herein its findings of facts and conclusions of law, and having found that the plaintiff is entitled to judgment against the defendant, and coming now to enter the appropriate judgment, it is ordered that the Clerk forthwith enter the following judgment of record:

It is ordered and adjudged that the plaintiff, Greyvan

Lines, Inc., a corporation, do have and recover from t
defendant, Carter H. Harrison, individually and as C
lector of Internal Revenue, the sum of $32,226.19, togeth
with interest as provided by Section 3771, Title 26, U. S.
on the following amounts and dates, to-wit:

131 On $2,713.32 from August 12, 1942;
On $11,278.77 from September 25, 1942;
On $18,234.10 from October 30, 1942.

Plaintiff's costs herein incurred or expended shall b
taxed by the Clerk.

Defendant excepts.

The Court finds, pursuant to Title 28, Section 842, Unite
States Code; that the defendant, in making the collectio
of said taxes, interest and penalties, acted under the direc
tion of the Commissioner of Internal Revenue and that th
amount of this judgment should be provided for and paid
out of proper appropriation from the Treasury of th
United States.

Enter:

Campbell,
Judg

Nov. 9, 1944.

Dated at Chicago, Illinois, this 13 day of October A. D
1944.

132 And afterwards on, to wit, the 8th day of January, 1945, came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Notice Of Appeal, in words and figures following, to wit:

133 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,

Eastern Division.

Greyvan Lines, Inc., *Plaintiff*, *vs.* Carter H. Harrison, Individually and as Collector of Internal Revenue, *Defendant*.	Civil Action. Consolidated Cases 43-C-10 and 43-C-276.

NOTICE OF APPEAL.

Notice is hereby given that Carter H. Harrison, defendant in the above-entitled consolidated cases, hereby appeals to the United States Circuit Court of Appeals for the Seventh Circuit from a judgment entered by the United States District Court for the Northern District of Illinois, in the above-entitled cases in favor of the plaintiff on October 13, 1944.

J. Albert Woll,
United States Attorney, in and for the Northern District of Illinois.

(Attached hereto is the following certificate:)

134 IN THE DISTRICT COURT OF THE UNITED STATES,
For the Northern District of Illinois,
Eastern Division.

CERTIFICATE OF MAILING.

I, Roy H. Johnson, Clerk of the United States District Court, for the Northern District of Illinois, Eastern Division, keeper of the Seal and Records of the said Court, do hereby certify that on the 9th day of January, 1945, in accordance with Rule 73 (b) of the Rules of Civil Procedure for District Courts of the United States, I did cause to be mailed a copy of the foregoing Notice of Appeal to the following attorneys of record:

George T. Christie, R. 2737,
Board of Trade Building,
141 West Jackson Boulevard,
Chicago, 4, Illinois.

Wilbur E. Burdy,
2910 A. I. U. Building,
Columbus, Ohio.

Roy H. Johnson,
(Seal) *Clerk.*

135 And afterwards on, to wit, the 8th day of February, 1945, came the Defendant-Appellant by his attorneys and filed in the Clerk's office of said Court his certain Statement Of Points, in words and figures following, to wit:

136 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—43 C 10 & 276)

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY ON APPEAL.

The appellant, Carter H. Harrison, Collector of Internal Revenue for the First Collection District of Illinois, hereby states that in his appeal to the United States Circuit Court of Appeals for the Seventh Circuit from the final judgment

entered against him in the above-entitled cases on October 13, 1944, for $32,226.19, with interest and costs, he intends to rely upon the following points:

1. The Court erred in its special finding of fact No. 10 in finding that the truckmen named in the amended and supplemental returns were not employees of plaintiff and in finding that said truckmen were independent contractors.

2. The Court erred in its special finding of fact No. 11 in finding that the word "dummy" used in amended and supplemental returns referred to unnamed and unascertained employees of the truckmen and that no employer-employee relationship existed between plaintiff and said parties.

137 3. The Court erred in its special finding of fact No. 12 in that the same is in part not supported by evidence and in that the evidence does not support the statement that plaintiff operated under the "system" from 1930 to the present time and that its entire business was operated in that manner and that the truckmen were all residents of the states where plaintiff did business. Also the statement is unsupported by evidence that it was impracticable or impossible for plaintiff to attempt to exercise control over the means and manner of the performance of the transportation and loading and unloading goods into and from the motor equipment. Likewise the statement is unsupported by evidence that all costs of operation were borne by the truckmen.

4. The Court erred in its special finding of fact No. 13 in finding that the plaintiff had no record of the names of the truckmen's employees or amounts of wages paid them or had no contact with the helpers and in finding that the helpers were obtained by truckmen from established warehouses and that such warehouses were paid by the truckmen, none of these findings being supported by the evidence.

5. The Court erred in its special finding of fact No. 14 in that the following statements in said finding are not supported by the evidence: (a) That the truckmen were not employed on the basis of a wage with respect to employment and no record of wages was by reason thereof available. (b) That the determination of the wages paid to the truckmen was arbitrary and illegal.

6. The Court erred in its special finding of fact No. 15 in that statements therein that the determination of wages was arbitrary and illegal and not supported by the evidence.

138. 7. The Court erred in its special finding of fact No. 16 in finding that payments to truckmen who were partnerships were not assessable under the Social Security Act.

8. The Court erred in its special finding of fact No. 19 in finding that the truckmen's equipment when new carried an average investment of $5,000 and that each van bore all designations required by the federal and state regulatory acts, said statements being not supported by the evidence.

9. The Court erred in its special finding of fact No. 20 in finding that the truckman pays all expenses of the transportation and all fines and that he chooses his own routes for the delivery of goods and merchandise except in such instances as he or the company may be restricted by local rules and regulations, said finding not being supported by the evidence.

10. The Court erred in its special finding of fact No. 22 in that there is no evidence showing that all of the provisions of the contract were adhered to by all of the parties thereto.

11. The Court erred in its special finding of fact No. 23 in that there is no evidence showing that the form of these particular contracts was in force prior to the Social Security Act in 1936 and in further finding there was no efforts of tax evasion on the part of the plaintiff.

12. The Court erred in its special finding of fact No. 24 in making the following findings which are unsupported by the evidence: (a) That the relationship of employer-employee did not exist between plaintiff and the truckmen and persons employed by the latter to help them. (b) That the truckmen were engaged in businesses of their own. (c)

139 that the degree of control over hiring and paying wages and discharging stamped the relationship between the truckmen and helpers as the employer-employee relationship. (d) That the directions given the truckmen were all centered about the requirements provided by law for safety to the public and safe transportation and delivery of goods entrusted to plaintiff's custody.

13. The Court erred in its special finding of fact No. 25, the entire finding being unsupported by the evidence which does not support the statements: (a) That the amount assessed was arbitrarily arrived at. (b) That the plaintiff had no power under the contract to require the truckmen to make an accounting of wages paid "their employees". (c) That plaintiff kept no records respecting those employed by the truckmen. (d) That plaintiff collected no tax from persons named in the amended and supplemental returns and had no right or authority to do so. (e) That plaintiff paid to employees of the truckmen no amounts as wages or otherwise. (f) That plaintiff paid the truckmen no wages for personal service upon which any tax could be computed under the Act.

14. The Court erred in its special finding No. 26 in that there is no evidence that the Collector did not secure the social security numbers of those alleged to be employees and that it was not possible to credit contributions to any individual, the same being not supported by the evidence.

15. The Court erred in refusing to find on request of the defendant that the contracts entered into between the truckmen and plaintiff were in form as Exhibit A introduced as evidence in the cases and in refusing to set forth in said findings a complete statement of the material portions of said contract, especially the provisions of paragraph 1, 2, 5, 6, 10, 12, 13(a), 13(b), 15, 16, 18, 20 and 21 of said contract, the provisions of which clearly showed that plaintiff had the right to control the truckmen and their helpers as to the details of their work. The Court further erred in refusing to find that under the provisions of said contract the truckmen agreed to devote their services exclusively to the plaintiff in transporting plaintiff's goods, wares and merchandise; that in loading and unloading goods the truckmen agreed to comply with all rules, instructions and regulations of the plaintiff and that all unloading and loading of merchandise and setting up the same must be in accordance with tariff, instructions and regulations of the plaintiff; also that collection of monies for the plaintiff must be in accordance with instructions, general or special, issued by the plaintiff, and that if licenses, taxes, fines and penalties were incurred while acting in accordance with the rules, regulations and instruc-

tions of the plaintiff, the plaintiff was bound under the contract to credit the truckmen's account with the same; also that the plaintiff had the right to terminate the contract with the truckmen upon notice and the truckmen had the right to quit upon notice. The Court also erred in refusing to find that additional compensation was payable to the truckmen under the contracts, dependent upon satisfactory performance of services, mental attitude and personal appearance.

16. The Court erred in refusing to find as requested by defendant that early in 1940 plaintiff issued to each of said truckmen under contract, as well as to truckmen who later executed contracts with plaintiff, a book known as a manual for truckmen in form as Government's Exhibit 1, and that the truckmen and their helpers were required and obliged to follow the provisions of such manual. The undis-
141 puted evidence showed that such manual was issued and that the terms and provisions thereof required the truckmen to follow the same and that through such manual plaintiff exercised the right of control over the truckmen and their helpers not only as to the result to be accomplished by the work but as to the details and means by which the work was to be accomplished.

17. The Court erred in refusing to find as requested by defendant that bulletins and instructions had been issued by plaintiff prior to 1940 and during the years and periods here involved, containing similar instructions and directions to those contained in the truckmen's manual.

18. The Court erred in refusing to find as requested by the defendant that the amounts determined by the Collector and Commissioner as being wages subject to taxation under the Social Security Act were determined as a result of a conference between the Collector and plaintiff's treasurer and that plaintiff's treasurer agreed with the Collector, that the amounts which were allocated by the Collector as wages were proper and correct.

19. The Court erred in refusing to find as requested by the defendant that in 1939 plaintiff filed exceptions to a report of Examiner Garofalo of the Interstate Commerce Commission in connection with an application by plaintiff for a certificate of public convenience and necessity, which exceptions stated that the driver-owner equipment was operated under the full management and control of plaintiff

and that the operations were the same at all times since June 1, 1935.

20. The Court erred in refusing to find as requested by defendant that in an argument before the Interstate Commerce Commission on exceptions to the examiner's report, plaintiff's counsel stated before the Commission that
142 the relationship of employer-employee existed between plaintiff and truckmen.

21. The Court erred in its conclusion of law No. 2 in concluding that plaintiff was not the employer of the truckmen and the helpers were not employees of plaintiff and in concluding that the helpers were employees of the truckmen.

22. The Court erred in concluding that the taxes paid for which recovery was sought were erroneously and arbitrarily assessed and collected from plaintiff and in concluding that plaintiff was entitled to recover the same.

23. The Court erred in concluding that plaintiff was entitled to judgment against defendant.

24. The findings and judgment of the Court are not sustained by the evidence.

25. The findings and judgment of the trial court are contrary to law.

26. The trial court erred in not entering findings and judgment in favor of the defendant.

J. Albert Woll,
United States Attorney in and for the Northern District of Illinois, Eastern Division.—Attorney for Defendant-Appellant.

Received a copy of the above and foregoing contents of record on appeal this 24th day of January, 1945.

Wilbur E. Benoy,
George T. Christie,
Attorneys for Greyvan Lines, Inc., Plaintiff-Appellee.

143 And on the same day, to wit, the 8th day of February, 1945 came the Parties by their attorneys and filed in the Clerk's office of said Court their certain Stipulation in words and figures following, to-wit:

144 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—43-C-10 & 276)

STIPULATION.

It Is Hereby Stipulated by and between the parties hereto in the above entitled appeal that:

1. The defendant-appellant herein be required to file only one copy of the transcript of testimony;

2. The Clerk of the United States District Court for the Northern District of Illinois be directed to transmit all exhibits in original form to the Clerk of the Seventh Circuit Court of Appeals.

J. ALBERT WOLL,
United States Attorney,
Attorney for Defendant-Appellant.

WILBUR E. BEXON,
Attorney for Plaintiff-Appellee.

January 24, 1945.

363 And on the same day, to wit, on the 12th day of February, 1945, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge appears the following entry, to wit:

364 IN THE DISTRICT COURT OF THE UNITED STATES:

Monday, February 12, 1945.

Present,

Honorable William J. Campbell, District Judge.

(Caption—43-C-10 & 276)

On motion of the defendant by the United States Attorney It Is Ordered that the Clerk of this Court be and he is hereby directed to transmit to the Clerk of the Circuit Court of Appeals for the Seventh Circuit the original exhibits of plaintiff and defendant in lieu of copies thereof.

364½ The following are the docket entries in said cause: No. 43-C-10:

363 (Caption)

Attorneys:

For Plaintiff:

George T. Christie, Room 2737, Board of Trade Building;

Wilbur F. Burdy, 2910 A. I. U. Building, Columbus, Ohio.

For Defendant:

J. Albert Woll, U. S. Attorney.

Date	Plaintiff's Account	Rec'd	Disbur'd
1-6-43	GTC	10.00	
Mar. 31, 1943	March report		5.00
	December Report		5.00

COMPLAINT & PRECIPE.

Basis of Action: Action under Soc. Sec. Act, T. VIII 801 *et seq.* under SubChap. (a), Chap. 9, Int. Rev. Code. Suit to collect excise taxes erroneously & illegally paid by Pltff. 1937-42, etc. Seeks $13,992.09, interest.

Case No. 430276 Consolidated with this cause for trial

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu. Pltff.	Deft.	Returned
1-6-43	Filed Complaint & Precipe & 4 Copies (JS5)	5.00		
1-6-43	Filed Security for Costs			
1-6-43	Issued Summons and Copies			
2-3-43	Filed Summons returned served as to the U. S. of A., Attorney General, Commissioner of Internal Revenue and Carter H. Harrison. Fee 2.00			
3-12-43	Filed Answer of Carter H. Harrison	5.00	US	
4-1-43	Pursuant to standing order in Judge Campbell's Court this cause set for pre-trial conference May 4, 1943 at 10:30 A.M.— Campbell, J. Mailed Notice to Attorneys 4-1-43			
4-8-43	Order on motion pltff/ pre-trial conference reset from May 4, 1943 to June 8, 1943 at 11:30 A.M. Campbell, J. Mailed Notice to Attorneys; 4-10-43			
5-5-43	Order pre-trial conference reset from June 8, 1943 to June 7, 1943 at 11:30 A.M. Campbell, J. Mailed Notice to Attorneys, 5-6-43			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu't Returns
6-7-43	Pre-trial conference held. Issues of this case discussed together with issues in Case No. 43 C 276. Pltff. agrees to arrange for Govt. to interview necessary number of owner-driver associates of pltff. company. Parties hereto directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in contemplated stipulation. Pltff. directed to file its brief and arguments in support of its position within 15 days from the date of filing of agreed stipulation of facts. Deft. directed to file brief and arguments in reply thereto within 30 days thereafter. Pltff. directed to file reply thereto within 10 days thereafter. Whereupon this cause will be taken by the Court for disposition without further argument. Campbell, J. Mailed Notice to Attorneys, 6-11-43.			
9-17-43	Filed Stipulation and motion			
9-17-43	Enter orgley setting the trial of the above cases for November 22, 1943 as per stipulation—Campbell, J.			
367	Mailed Notice to Attorneys 9-20-43.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Returns
11-22-43	Order trial reset to January 31, 1944 at head of call—Campbell, J. Mailed Notice to Attorneys 11-23-43			
1-12-44	Order by agreement trial reset from January 31, 1944, to February 1, 1944.—Campbell, J. Mailed Notice to Attorneys 1-14-44			
1-28-44	Filed Praecipe for Subpoena			
1-28-44	Issued Subpoena to Joseph Garrison			
1-31-44	Filed Praecipe for Subpoena			
1-31-44	Issued Subpoena and copy to Aage Sahlgaard			
2-1-44	Order causes Nos. 43C10 and 43C276 consolidated for trial under consolidated No. 43C10—(Draft)—Campbell, J.			
2-1-44	Cause called for trial—Leave to Wilbur E. Benoy to practice in this court for the purposes of this trial—Leave to parties to file stipulation of facts instanter—Evidence heard in part for for plaintiff—Trial adjourned to February 2, 1944—Campbell, J. Mailed Notice to Attorneys 2-2-44			
2-1-44	Filed Stipulation of Facts			
2-2-44	Filed Plaintiff's Exhibit A to K, incl.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu't Pltff. Deft. Returns
2-2-44	Filed Government's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 9 Unidentified Exhibits	
2-2-44	Further evidence heard for plaintiff—Plaintiff rests—Evidence heard for defendant—Defendant rests—Both sides rest—Cause taken under advisement—Plaintiff directed to file brief and arguments within 30 days from this date—Defendant directed to file brief and arguments within 30 days thereafter—Plaintiff's replication to be filed within 15 days thereafter—Order exhibits filed—Leave to parties to withdraw exhibits for purpose of preparing briefs and arguments—Leave to parties to remove original exhibits permanently from Clerk's file upon substituting photostatic copies—Campbell, J. Mailed Notice to Attorneys 2-4-44	
2-3-44	Filed Witness Subpoena returned served as to Joseph Garrison Fee $.80	
3-6-44	Filed Witness Subpoena returned served as to Aage Sahlgaard $.68.	
3-8-44	Filed Receipt of U. S. Attorney re copy of findings of fact etc.	

Date	Filings-Proceedings	Clerk's Fees Pltff.	Deft.	Amount Reported in Emolu't Returns
4-6-44	By agreement time plaintiff to file reply brief extended to and including May 3, 1944— BARNES, J. Mailed Notice to Attorneys 4-10-44			
5-1-44	Order by agreement to extend time for filing plaintiff's reply brief to May 27, 1944— Campbell, J. Mailed Notice to Attorneys 5-5-44			
7-27-44	Filed Memorandum of Hon. William J. Campbell, District Judge			
7-27-44	Court finds issus for plaintiff— Pursuant to memorandum of Court filed herein this day counsel for plaintiff may within 20 days file proposed findings of fact; conclusions of law and form of judgment, etc. Defendant to file observations etc. within 20 days thereafter, etc. Plaintiff's reply to be filed within 10 days thereafter—Campbell, J. Mailed Notice to Attorneys 7-28-44			
8-1-44	Mailed copy Memorandum to Attorney General			30 US
9-9-44	Filed Defendant's Proposed Findings of Fact			
9-9-44	Filed Observations with Reference to Proposed Findings of Facts and Conclusions of Law and Judgment Decree submitted by Plaintiff and Suggestions for Modification Thereof			
9-13-44	Order by agreement time of plaintiff to file reply to observations of defendant extended 10 days from this date— Campbell, J. Mailed Notice to Attorneys 9-15-44			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu't Returns
0-13-44	Enter findings of fact and conclusions of law—(DRAFT)—Enter judgment-Plaintiff recover sum			
369	of $32,226.19 with interest and costs to be taxed, etc. (Draft)—Campbell, J. (JS6)	5.00		
	Mailed Notice to Attorneys 10-13-44			
1-8-44	Filed Notice			
1-8-44	Motion of Defendant to amend judgment entered and continued to November 9, 1944 before Judge Campbell—Barnes, J.			
	Mailed Notice to Attorney 14-10-44			
11-9-44	Entered Amended Judgment Order: Pltff. recover sum of $32,226.19 with interest, etc. and costs, etc. Draft. Campbell, J.			
	Mailed Notice to Attorneys 11-10-44			
	December 31, 1944		5.00	
8-45	Filed Notice of Appeal by defendant appealing from judgment entered October 13, 1944		5.00	US
9-45	Mailed copy of Notice of Appeal to George T. Christie R. 2737, Board of Trade Building, 141 West Jackson Boulevard, Chicago 4, Illinois and Wilbur E. Burdy, 2910 A.I.U. Building, Columbus, Ohio.			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Emolu'ts Returns
2-8-45	Filed Statement of Points on which appellant intends to rely on appeal			
2-8-45	Filed Designation of Contents of Record on Appeal			
2-8-45	Filed Stipulation			
2-12-45	Order directing Clerk of U. S. Dist. Court to transmit to the 7th Circuit Court of Appeals the original exhibits of pltffs. and defts. in lieu of copies thereof. Campbell, J. Mailed Notice to Attorneys 2-13-45			
2-12-45	Filed Transcript of Testimony—2 vols.			

The following are the docket entries in said cause: No. 43-C-276.

370 Reassigned to Judge Campbell.

(Caption)

For Plaintiff:

George T. Christie, 2737 Board of Trade Bldg.
Wilbur E. Benoy, 2910 A.I.U. Bldg. Columbus, O.

For Defendant:

J. Albert Woll, U. S. Attorney.

Date	Plaintiff's Account	Rec'd	Disbur'd
3-17-43	GTC	10.00	
Mar. 31, 1943	March Report		5.00
	December Report		5.00

Complaint, Basis of Action: Action under Soc. Sec. Act, T. IX, 901 et seq. U. S. C. T. 26, Chap. 9, sub-chap. (c) Int. Rev. Code (Fed. Unemploy. Tax Act), etc. Suit for refund for excise taxes erroneously & illegally exacted from Ptff. 1937-1941. Seeks $18,234.10 & interest & costs. Consolidate with Cause No. 43C10 for Trial.

371

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Pltff.	Deft.	Amount Refunds
3-17-43	Filed Complaint and 4 Copies (JS5).	5.00		
3-17-43	Issued Summons and 4 Copies			
3-17-43	Filed Security for Costs			
3-19-43	Filed Summons returned served as to Carter H. Harrison, J. Albert Woll, U. S. Atty., The Attorney General and the Commissioner of Internal Revenue Fee 2.00			
	March 31, 1933			5.00
4-19-43	Filed Notice			
4-19-43	Filed Motion of Defendant			
4-19-43	Order referring cause to the Executive Committee of this court for reassignment to the Calendar of Judge William J. Campbell,—Sullivan J. Mailed Notice to Attorneys 4-21-43			
4-20-43	It is ordered that the above-entitled cause be and the same is hereby re-assigned to Judge Campbell,—Barnes, Holly and Sullivan, Judges			
5-14-43	Filed Answer of defendant and proof of service		5.00	US
6-7-43	Pre-trial conference held. Issues of this cause discussed together with issues in Case No. 43 C 10. Pltff. agrees to arrange for Govt to interview necessary number of owner-driver associates of pltff. company. Parties			

Date	Filings-Proceedings	Amount Reported in Clerk's Fees Emolu' Pltff.	Deft.	Return
	hereto directed to meet in conference for the purpose of discussing and agreeing upon facts to be included in contemplated stipulation. Pltff. directed to file its brief and arguments in support of its position within 15 days from the date of filing of agreed stipulation of facts. Deft. directed to file brief and arguments in reply thereto within 30 days thereafter. Pltff. directed to file its reply thereto within 10 days thereafter. Whereupon this cause will be taken by the Court for disposition without further argument. Campbell, J.			
	Mailed Notice to Attorneys, 6-11-43			
9-17-43	Filed Stipulation (see No. 43C10)			
372				
9-17-43	Order setting the trial of the above case for November 22, 1943 as per stipulation—Campbell, J. (See No. 43C10)			
	Mailed Notice to Attorneys 9-20-43			
11-22-43	Order trial reset to January 31, 1944 at head of call—Campbell, J.			
	Mailed Notice to Attorneys 11-23-43			

1-12-44 Order by agreement trial reset from January 31, 1944, to February 1, 1944—Campbell, J.
Mailed Notice to Attorneys 1-14-44

1-28-44 Filed Praecipe for Subpoena (See 43C10)

1-28-44 Issued Subpoena to Joseph Garrison

1-31-44 Issued Subpoena to Aage Sahlgaard

2-1-44 Order Causes Nos. 43C10 and 43C276 consolidated for trial under No. 43C10—(Draft)—Campbell, J.

2-1-44 Cause called for trial—Leave to Wilbur E. Benoy to practice in this court for the purposes of this trial—Leave to parties to file stipulation of facts instanter—Evidence heard in part for plaintiff—Trial adjourned to February 2, 1944 at 10 A.M.—Campbell, J.
Mailed Notice to Attorneys 2-2-44

10-13-44 Enter findings of fact and conclusions of law—(Draft)—Enter judgment—plaintiff recover sum of $32,226.19 with interest and costs to be taxed etc. (Draft)—Campbell, J. (JS6) 5.00
Mailed Notice to Attorneys 10-13-44 (see No. 43 C 10)

December 31, 1944 5.00

And on, to wit, the 8th day of February, 1945 came the Defendant-Appellant by his attorneys and filed in the Clerk's office of said Court his certain Designation of Contents of Record on Appeal in words and figures following, to wit:

373 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption 43-C-10 & 276)

To the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division:

DESIGNATION OF CONTENTS OF RECORD ON APPEAL.

Comes now Carter H. Harrison, defendant-appellant herein, and designates that the following papers and documents be included in and contained in the record on appeal in the above-entitled cases:

1. All docket entries in cases.
2. Complaint in cause 43-C-10, summons thereon and return.
3. Complaint in cause 43-C-276, summons thereon and return.
4. Answer in cause 43-C-10.
5. Answer in cause 43-C-276.
6. Order of pre-trial conference dated June 7, 1943.
7. Order consolidating cases for trial dated February 1, 1944.
8. Stipulation of facts.
9. Memorandum opinion of Honorable William J. Campbell, dated July 27, 1944.

374 10. Defendant's observations with reference to proposed findings of facts, conclusions of law and judgment decree submitted by plaintiff and suggestions for modification thereof filed September 9, 1944.

11. Answer by plaintiff to suggestions for modifications, etc.

12. Findings of fact and conclusions of law and judgment order as entered by Court, October 13, 1944.

13. Amended judgment order entered November 9, 1944.

14. Transcript of all testimony of February 1 and 2, 1944.
15. Plaintiff's exhibits A to K, inclusive.
16. Government's exhibits 1 to 15, inclusive.
17. Notice of appeal.
18. Statement of points on which appellant intends to rely on appeal.
19. This designation of record.
20. All stipulations of the parties relating to the preparation of the record or contents thereon on appeal or relating to this appeal.
21. All orders of this Court relating to preparation of the record or contents thereon on appeal or extensions of time for filing of record or docketing case on appeal.

Dated at Chicago, Illinois, this 25 day of January, 1945.

J. ALBERT WOLL,
United States Attorney in and for the Northern District of Illinois, Eastern Division,
Attorney for Carter H. Harrison, Defendant-Appellant.

Received a copy of the above and foregoing designation of contents of record on appeal this 24th day of January, 1945.

WILBUR E. BENOY,
GEORGE T. CHRISTIE,
Attorneys for Greyvan Lines, Inc., Plaintiff-Appellee.

375. NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION. } ss:

I, Roy H. Johnson, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with designation filed in this Court in the case entitled: Greyvan Lines, Inc., Plaintiff, *vs.* Carter H. Harrison, Individually and as Collector of Internal Revenue, Defendant, Civil Action Consolidated Cases 43 C 10 and 43 C 276, as the same appear from the original records and files thereof now remaining in my custody

and control, except the original exhibits filed herein, and transmitted hereith.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 16th day of February, A.D. 1945.

(SEAL) Roy H. Johnson,
Clerk.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SEVENTH CIRCUIT.

Greyvan Lines, Inc.,
Plaintiff-Appellee,
vs.
Carter H. Harrison, Individually and as Collector of Internal Revenue,
Defendant-Appellant.
} No. 8779.

STIPULATION.

IT IS HEREBY STIPULATED by and between the parties hereto in the above entitled appeal, that the original exhibits introduced at the trial in the United States District Court for the Northern District of Illinois be omitted from the printed transcript of record herein and that such original exhibits as transmitted by the Clerk of the United States District Court to the Clerk of the Seventh Circuit Court of Appeals to be designated and incorporated by reference hereto as a part of said printed record.

J. ALBERT WOLL,
United States Attorney,
Attorney for Defendant-Appellant.

WILBUR E. BENOY,
Attorney for Plaintiff-Appellee.

Approved, Otto Kerner, Feb. 19, 1945.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the third day of October, in the year of our Lord one thousand nine hundred and forty-four and of our Independence, the one hundred and sixty-ninth.

8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

And, to wit: On the twelfth day of July 1946, there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said opinion is in the words and figures following, to wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

October Term, 1945, April Session, 1946

No. 8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

July 12, 1946

Before SPARKS, MAJOR, and KERNER, Circuit Judges.

SPARKS, Circuit Judge. The Greyvan Lines, Inc., sued to recover certain amounts alleged to have been wrongly assessed and collected for social security taxes under the alleged authority of the Social Security Act, 42 U. S. C. A. §§ 1001 and 1101. The District Court found that the persons on whose alleged wages the taxes were paid were independent contractors rather than employees, and accordingly entered judgment for their refund, and from that judgment, the Government appeals.

The taxpayer is an Indiana corporation organized to engage as a common carrier in the business of transporting household and other goods by motor truck in thirty-eight states and into certain Canadian provinces. It was authorized to conduct its business in the United States under the grandfather clause of the Motor Carrier Act (49 U. S. C. A. § 301 et seq.), and the various Acts and regulations of the states in which it operated. It filed its return as an employer and paid taxes pursuant thereto. The Collector, however, claimed additional taxes as to certain individuals referred to here as truckmen, and helpers engaged by them, and it is as to the status of these individuals that the controversy is presented. The taxpayer contends that the truckmen operated as independent contractors, and their helpers were their own employees, while the Collector contends that the truckmen and their helpers alike bore an employee relationship to the taxpayer.

The court found that as early as 1930, the Company developed a system whereby the transportation of goods entrusted to it for such transportation, was contracted to suitable, responsible owners of motor vehicle equipment residing in the various states in which it did business.

The contracts under which these owner-operators worked provided for exclusive service for themselves and their equipment, including their motor vehicles and all necessary paraphernalia and materials for the business, and that in connection with this exclusive service, the truckmen would comply with all rules, regulations and instructions of the Company. The trucks were required to be painted with certain colors and insignia as designated by the Company. The contract further provided that the truckman would hire any labor required incident to pick-up, loading and delivery of shipments "at his own expense and in his own employ and which shall be under his direction and control." He was to personally drive his truck or trucks except that he was permitted to use a competent helper as a relief driver, and, in case of unforeseen circumstances, he might, upon notifying the Company and obtaining its approval, employ a substitute, but he or the approved substitute was required to remain on the truck.

The truckmen were required to furnish fire, theft, collision, public liability, and property damage insurance at their own expense, and the Company was authorized to place all such insurance for the truckmen and charge their accounts for it. The Company was to furnish necessary cargo insurance. Each truckman was to furnish a $1,000 bond to cover himself and his substitute driver, if any, and he was also required to deposit $250 to be held until final settlement of all accounts. Unless special credit was arranged by the shipper, collections were to be made on all deliv-

eries by the truckmen according to instructions furnished with each shipment. All claims for loss or damage not covered by cargo insurance were to be charged to the account of the truckman, and the contract required that notice of such claims be given to him immediately in order to enable him to clear himself of responsibility if possible, and if he established his non-liability for a claim theretofore paid, his account was to be credited for the amount paid in settlement.

All operating costs, which were listed by the contract to include property taxes, resident vehicle license, fuel, tires, and repairs, were to be borne by the truckman, while the Company was to furnish all permits and licenses for operation in its service as a motor carrier under federal or state laws.

The contract further provided that all contracts or bills of lading should be in the name of the Company, and if the truckman obtained any business himself, he must notify the Company to enable it to make the contract in its own name. If the truckman did any hauling for anyone other than the Company his contract would be subject to termination for breach. The Company was authorized to charge to the truckman's account any expense incurred by it for his express benefit.

Remuneration was provided for in accordance with a Rate Schedule, a current copy of which was attached to the contract, and it was further agreed that the schedules would not be changed, nor would any rules be adopted by the Company which would result in reducing the income, as provided by the schedule, without the written consent of the duly authorized representative of the truckman. This remuneration was a percentage of the predetermined tariff charges, from 50% to 52%, plus a bonus up to 3% of the tariffs.

The contract was subject to cancellation at any time upon written request of the truckman or written notice by the Company.

In 1942, the Collector of Internal Revenue amended and supplemented the Company's returns for taxation under Titles VIII and IX of the Social Security Act, assessing additional taxes based on a determination that the Company had paid taxable wages during the period from 1937 to 1942 which had not been included in the returns originally filed by it. The basis used for the assessment was an average wage for each truckman of $36 a week for forty-four weeks a year up to January 1, 1942, and $42.50 a week thereafter, those being the union wage scales. For the helpers, it was determined that their wages would be 41.67% of the amount determined for the truckmen's wages. The total amount calculated was $181,866, on which taxes and penalties were assessed.

The parties stipulated as to the mode of calculating the additional taxes assessed, but not their correctness. In addition, the evidence consisted of certain exhibits and the testimony of a number of witnesses. From this evidence the court rendered findings of fact including the following which appellant challenges: The truckmen were not employees of taxpayer but were independent contractors; they travelled long distances from its place of business and were on the road for long periods of time and it was therefore impracticable and impossible for taxpayer to exercise control over the means and manner of the transportation, loading the unloading of the goods; some of the truckmen were partnerships and the contract payments to them were not assessable under the Act; the relationship of employer and employee did not exist between taxpayer and the truckmen or between taxpayer and persons employed by the truckmen; the truckmen were engaged in business of their own; the degree of control over the hiring, paying, managing and discharging of helpers stamps the employer-employee relationship as existing only between the truckman and his helpers; no control by the taxpayer over the truckman or his employees existed in any way inconsistent with the contract provisions; and the directions that were shown to have been given the truckmen were centered about the requirements provided by law for safety to the public and the safe transportation and delivery of the goods entrusted to the taxpayer's custody.

Appellant contends that in determining these facts the court failed to give effect to important provisions of the contracts which it asserts clearly show the reservation of the right of control over the truckmen and their helpers as to the methods and means of their operations which, it is agreed, furnish the test for determining the relationship here in question. Appellant calls attention to a manual which was furnished to each truckman giving very detailed instructions which do go far to indicate the control it seeks to establish. For instance, the manual provided that no truckman might turn his van over to his helper or other person without specific authority from the General Office; that when drivers were on parking lots and had time available it was expected that they would help other drivers in loading and unloading without additional compensation; that in case they were operating into or out of any location where there was a strike in progress, the truckman must get in contact with the union representative and obtain and abide by his instructions; that they must patronize designated parking lots and purchase as much gas as possible from such lots; that they must take the most practicable routes between points except as otherwise dispatched. The manual also provided rather specific procedures to

be followed from the time the truckman received his instructions to load until he finished the job and prepared for another. It described a uniform said to have been adopted by the Company, although it did not say by whom it must be worn.

While it is true that many provisions of the manual, if strictly enforced, would go far to establish an employer-employee relationship between the Company and its truckmen, we agree with appellee that there was evidence to justify the court's disregarding of it. It was not prepared until April 1940, although the tax period involved was from November 1937, through March 1942, and there was no evidence to show any change or tightening of controls after its adoption and distribution; one driver testified that he was never instructed to follow the rules therein provided; an officer of the Company testified that it had been prepared by a group of three men no longer in their employ, and that it had been impractical and was not adhered to.

Appellant also contends that appellee obtained its certificate of public convenience and necessity for operation as a common carrier on the strength of assertions of its counsel in 1935, that the relationship of employer-employee existed between it and its truckmen. A reading of the opinion of the Commission published at that time does not bear out this contention. See Greyvan Lines, Inc., Common Carrier Application, 32 M. C. C. 719. It appears to us that the Commission clearly contemplated the use by the Company of leased equipment, operated by the owners thereof, under the direction of "applicant's own employees," who caused the drivers to comply "with such company rules as would insure efficient operation." We do not understand that § 206 of the Interstate Commerce Act, as added in 1935, 49 U. S. C. A. § 306, requiring the issuance of a certificate of convenience and necessity for all common carriers by motor vehicle, requires that such carriers may operate only through their own employees, as distinct from independent contractors, so long as such independent contractors operate under the general supervision of the carrier's employees. § 303 which defines the term "common carrier by motor vehicle" (§ 303, subd. 14), also defines "services" and "transportation" to which the chapter applies to include "all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract. * * *" (§ 303, subd. 19). In view of these definitions, we find nothing inconsistent in the operation of a common carrier service through the medium of independent contractors, as here engaged.

Appellee relies very strongly upon United States v. Mutual Trucking Co., 141 F. 2d 655, where the Court of Appeals for the Sixth Circuit affirmed a judgment for refund of taxes held to have

been illegally collected from another trucking company which carried on its business through owner-operators. Appellant says the facts are very different. It is true that the facts there do not present as close a question as in the case at bar. There it appears that the trucking company was a contract, rather than a common carrier, and the contract under which the company and its truckmen operated specified that the latter were contractors only, and not agents or employees of the company, and also that the owner-operators assumed full responsibility for all social security taxes, and the evidence showed that eleven of them actually paid such taxes on the wages of their helpers. Even so, we think the reasoning of the court applies with equal force here as to the significance of the control of the owner-operators over the helpers engaged by them. We think the true employer-employee relationship arises at that level in both cases (Williams v. United States, 126 F. 2d 129), and that the Company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control, and of whose employment it has no knowledge. And this element of control of the truckmen over their own helpers goes far to prevent the employer-employee relationship from arising between them and Company. While many factors in this case indicate such control as to give rise to that relationship, we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations. Except for the actual driving of the trucks, the contract imposes no restrictions whatever on the employment of helpers. We think it cannot be said that a truckman to whom is left the determination of whether to do the work himself or engage others to do it is a mere employee. And when no report is required or expected as to those helpers, their identity, the work performed by them, their hours of work, we think the Company cannot be required to pay employment taxes based on their labor. The breaking down of the payments to the truckmen to differentiate between wages and profits from the use of their equipment appears to us to be equally arbitrary.

We agree with the District Court that the relationship of employer and employee did not exist between the Company and the truckmen or their helpers. We find no error in the findings challenged by appellant.

Judgment affirmed.

A true Copy:
Teste:

Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

And on the same day, to wit: On the twelfth day of July 1946, the following further proceedings were had and entered of record, to wit:

Friday, July 12, 1946

Court met pursuant to adjournment.

Before: Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. OTTO KERNER, Circuit Judge.

8779

GREYVAN LINES, INC., PLAINTIFF-APPELLEE

vs.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the judgment of the said District Court in this cause appealed from be, and the same is hereby, affirmed.

[Clerk's certificate to foregoing transcript omitted in printing.]

In the Supreme Court of the United States

October Term, 1946

Order enlarging time within which to petition for a writ of certiorari

On consideration of the motion of the Solicitor General in the above case, and good cause therefor having been shown, it is ordered that the time within which a petition for a writ of certiorari may be filed herein on behalf of the Collector of Internal Revenue be and the same is hereby extended for a period of sixty days from October 12, 1946.

Dated this 19th day of September 1946.

WILEY RUTLEDGE,
Associate Justice,
Supreme Court of the United States.

Supreme Court of the United States

No. 673, October Term, 1946

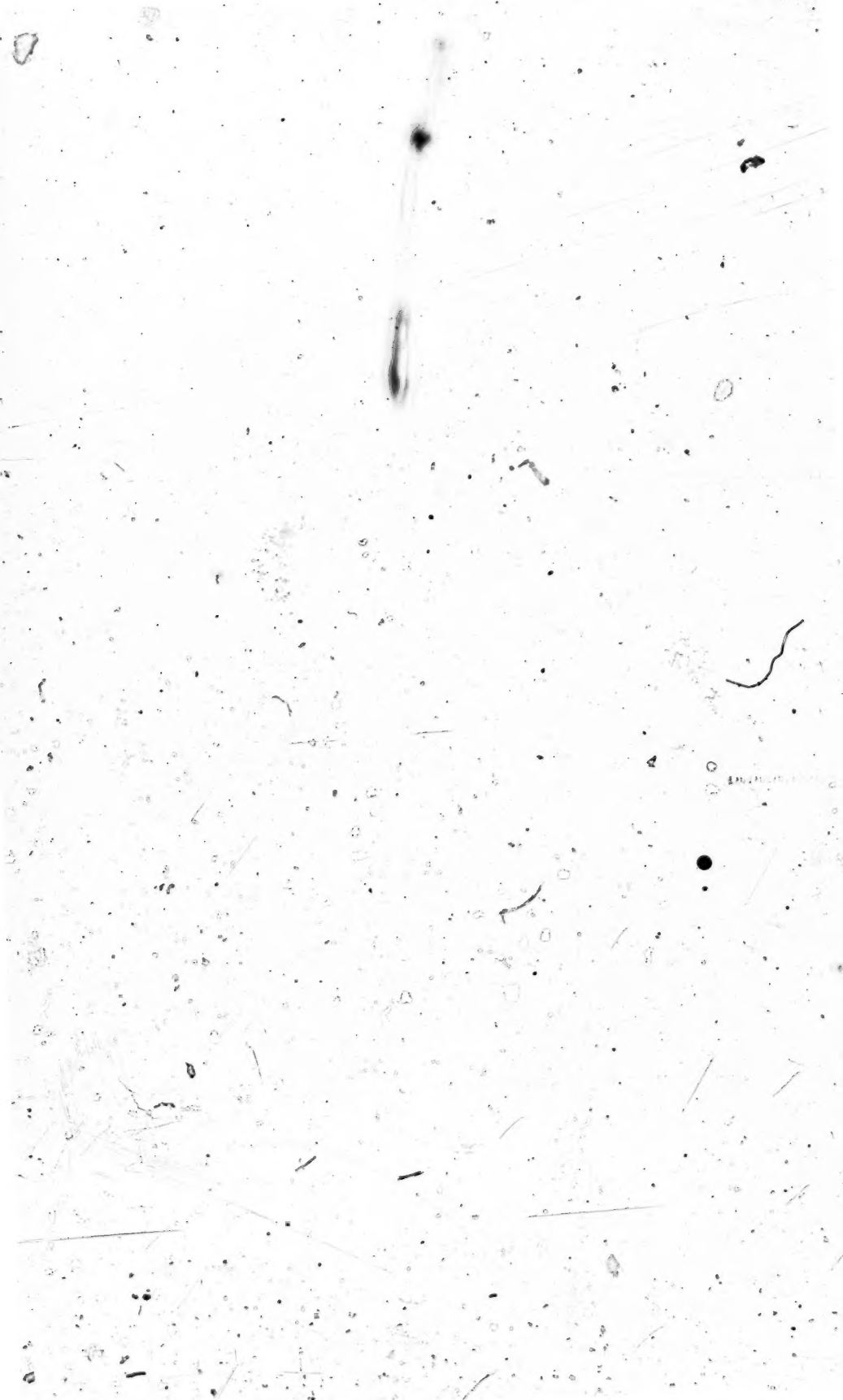
Order allowing certiorari

Filed December 16, 1946

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted. The case is transferred to the summary docket and assigned for argument immediately following No. 312.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U. S. GOVERNMENT PRINTING OFFICE: 1947



CLERK'S COPY

VOLUME 2
TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 673

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 6, 1946
CERTIORARI GRANTED DECEMBER 16, 1946

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 673

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

INDEX

	Original	Print
PLAINTIFF'S EXHIBITS		
A—Truckman's agreement between Greyvan Lines, Inc., and M. R. Parsley, Aug. 22, 1938	1	265
B—Instructions to truckman	18	Face 275
C—Shipping order	19	
D—Accounts payable voucher	20	
F—Accounts payable voucher	22	
G—Statement of account, September, 1941	23	
H—Record of bonus payment, September, 1941	24	
J—Statement showing transportation revenue and gross contract earnings of George Bossert, a contract truckman	26	275
K—Statement showing transportation revenue and gross contract earnings of Max Parsley, a contract truckman	27	276
GOVERNMENT'S EXHIBITS		
1—Manual for Truckmen—Greyvan Lines, Inc	28	276
3—Advertisement of Greyvan Lines, Inc	138	Faces 368
4—Agreement between Greyvan Lines, Inc. and Van Drivers', Chauffeurs', Piano, Furniture Movers', and Helpers' Union, effective Jan. 1, 1938	139	368
5—Photograph	147	Face 374
6—Photograph	148	

729107—47——1

	Original	Print
7—Form—Preventive Maintenance Inspection and Adjustment Every Month	149	375
8—Form—Physical Inspection Report	151	379
9—Application of Greyvan Lines, Inc. for certificate to operate as a Common Carrier, Feb. 10, 1936	152	379
10—Exhibit attached to exhibit 9	154	380
12—Transcript of notes of oral argument held Oct. 25, 1939 in I. C. C. Docket No. MC–14786	157	380
13—Exceptions of applicant to recommended report and order in I. C. C. Docket No. MC–14786	169	385
14—Report of Commission in Docket No. MC–14786, March 17, 1942	180	389
15—Application for identification plates submitted by Greyvan Lines, Inc	188	395
Stipulation re printing of record	189	396

1 *Plaintiff's Exhibit A*

GREYVAN LINES

2 TRUCKMAN'S AGREEMENT

This Agreement, made and entered into by and between Greyvan Lines, Inc., an Indiana Corporation, hereinafter referred to as the Company, party of the first part, and M. R. Parsley, an individual, residing at 1518 Draper Street, city of Indianapolis, State of Indiana, hereinafter referred to as the Truckman, party of the second part, witnesseth:

Whereas, the Company is a motor carrier engaged in the transportation of goods, wares, and merchandise for hire upon the public highways throughout the United States and Canada under the trade name of Greyvan Lines, and maintains offices in various cities and towns in connection with its transportation business; and,

Whereas, the Truckman is the owner of a motortruck or trucks and desires to devote such motortruck or trucks and the services thereof exclusively to the Company in its business as a motor carrier,

Now therefore, in consideration of the mutual promises and covenants hereinafter contained, the parties hereto agree as follows:

Equipment

1. The Truckman will furnish to the Company for its exclusive service, said motortruck or trucks, together with all necessary pads and equipment required in the transportation business. He will, before placing in the service of the Company, paint said motortruck or trucks, at his own expense, in accordance with the standard Company colors as designated by the Company, and will thereafter permit the Company to have said motortruck or trucks varnished or repainted at its expense whenever, in the opinion of the Company, there is need therefor; and when said motortruck or trucks are withdrawn from the service of the Company he shall immediately, at his own expense, remove all Company colors, insignia, and advertising therefrom, and eliminate all permit or certificate numbers designating said motortruck or trucks as operating in the service of the Company.

Hauling

2. The Truckman will devote said motortruck or trucks exclusively to the services of the Company in its transportation of

goods, wares, and merchandise, loading and unloading the same and delivering to destination in accordance with the shipping contracts or bills entered into by the Company with its consignors or consignees; and in connection therewith comply with all the rules and regulations and instructions of the Company.

Helpers

3. The Truckman will hire any labor required incident to pick-up, loading, and delivery of shipments at his own expense and in his own employ and which shall be under his direction and control.

Packing

4. The Truckman will furnish all packing and/or crating materials and do the necessary packing and/or crating and/or unpacking and/or uncrating of dishes, bric-a-brac, and all other items when so instructed by the Company pursuant to the Order for Services.

4

Driving

5. The Truckman will personally drive his motortruck or trucks exclusively, unless unforeseen circumstances require his employment of a substitute driver, of which the Company shall be notified and give its approval; provided, however, that the Truckman may permit a competent helper to act as a relief driver, so long as such Truckman or such substitute driver remains personally on said motortruck or trucks.

Delivery

6. The Truckman will load all furniture and other goods, wares, and merchandise, and unload and place same upon delivery, and set up all furniture taken apart for shipping purposes, in accordance with the tariffs, rules, and regulations of the Company.

Insurance

7. (a) The Truckman will furnish, at his own expense, Public Liability and Property Damage Insurance upon his motortruck or trucks, in such limits as may in the opinion of the Company be considered necessary for the protection of the interests concerned, and in no event to be less than the requirements of State and Federal Laws. The Truckman will renew such insurance when necessary during the life of this agreement, and, for each of these pur-

poses, authorizes the Company to place such insurance with an authorized insurance carrier and charge the cost thereof to the account of the Truckman. Such insurance shall jointly cover the liability of the Company and the Truckman as their respective interests may appear.

(b) The Truckman will furnish fire, theft, collision, and other insurance which the Company may specify upon his motortruck or trucks at his own expense whenever, in the opinion of the Company, such insurance is necessary for its protection, and name the Company as an additional assured as its interests may appear, and for such purpose authorizes the Company to place such insurance with an authorized insurance carrier and charge the cost thereof to the account of the Truckman; or the Truckman will, at the option of the Company, have the Company named as an additional assured, as its interests may appear, in any such policy he may then have in effect.

(c) The Company will place and maintain in effect, at its own expense, cargo insurance as a motor carrier for loss of or damage to goods, wares, and merchandise transported in the motortruck or trucks of the Truckman in any such amount as the Company may elect and/or as may be required by any public authority.

Bonding

8. The Truckman agrees to make application through the Company for a Fidelity Bond covering the Truckman and/or his substitute driver, in an amount not to exceed One Thousand Dollars ($1,000.00) in a surety company approved by the Company and agrees further that the cost of any bond which may be issued may be paid by the Company and charged to the account of the Truckman.

Cash Deposit

9. The Truckman shall post a cash deposit of Two Hundred and Fifty Dollars ($250.00) with the Company, to be held by the Company during the period this agreement remains in effect and, thereafter, until such reasonable time as all pending matters relating to a final settlement of the Truckman's account, have been concluded to the mutual satisfaction of both parties, whereupon said deposit, or the balance due the Truckman shall be refunded to the Truckman with interest at the current rate for savings accounts in the City of Chicago, Illinois. The Company will make every effort to conclude final settlement with the Truckman within sixty (60) days after the termination of the agreement.

Collections

10. The Truckman will collect all moneys due the Company for the hauling of goods, wares, and merchandise, together with any other charges which may accrue in connection with the said hauling, either as specified in the "Instructions to Truckman" issued for each shipment, or as covered by special instructions, and turn in all of the said moneys together with receipt properly signed by the shipper or consignee or his agent, at the office of the Company to which he reports after delivering the shipment, except that the Company may, at its discretion, direct or authorize any specific delivery to be made otherwise in keeping with the circumstances of any emergency which may arise.

Claims

11. (a) The Company may charge to the Truckman's account the cost of any or all loss of or damage to goods, wares, and merchandise occurring while same are in his custody, possession, or control, other than the liability for same, which is covered by the cargo insurance. It is also agreed that the Truckman shall be given prompt notice of any claims involving his responsibility and shall be given an opportunity to clear himself of responsibility in connection therewith and if the Truckman establishes his nonliability then the amount paid in settlement of the
7 claim shall be credited to his account.

(b) All information in connection with claims, in possession of the Company, shall be open to the Truckman for his inspection, in connection with the settlement of any claims with which he is concerned.

(c) The Company may charge to the Truckman's account the amount of any loss, damage or expense which the Company may sustain or be liable for because of any act or acts of the Truckman, the Truckman's servants, employees or representatives and the Truckman agrees to indemnify the Company therefor.

Maintenance

12. The Truckman will, at his own expense, keep said motortruck or trucks in good mechanical condition at all times, and keep said motortruck or trucks and equipment clean, and comply with the safety provisions of each State and of the Interstate Commerce Commission, and immediately make mechanical correction or meet other requirements necessary to the proper operation of said motortruck or trucks. The Truckman will not incur any obligations in the name of the Company nor open any charge

accounts in the name of the Company, whether for the repair, maintenance, or operation of his truck, or otherwise, without written consent from the General Office of the Company first had and obtained, in each instance.

Operating Costs—Including Licenses

13. (a) The Truckman shall pay the cost of operation of the said motortruck or trucks and such cost shall include property taxes, resident vehicle license, oil, fuel, tires, repairs, and
8 all other costs incident to the ownership and operation of the motortruck or trucks. The Company will obtain and secure at its own expense all permits, certificates, and franchises necessary to the operation of the vehicle in the service of the Company as a motor carrier under any Federal or State Law. In the event the Truckman advances the cost of any license (other than the resident license required by the reason of his ownership of the motortruck or trucks), taxes, fines, penalties, or other items which are required by reason of the operation of the motortruck or trucks in the service of the Company in conformity with the rules and regulations and instructions of the Company, the Company shall credit the account of the Truckman the expense thereof; provided, however, that the Truckman shall deliver to the General Office of the Company a proper receipt or evidence verifying any such specified expenditure.

(b) In the event this agreement is terminated prior to the time of expiration of any license and/or registration plates or other identifying insignia, cards, or papers, and/or registration fees and/or taxes for which the Company has either paid or credited the Truckman's account or otherwise furnished, the Truckman will deliver to the General Office of the Company such license and/or registration plates or other identifying insignia, cards, or papers and all necessary papers pertaining thereto with any signatures which may be required to effect a transfer thereof or secure a refund from the governmental agencies involved. Upon the failure of the Truckman to cooperate with the Company to effect such transfer or secure such refund, the Company may, at its option, charge to the Truckman's account the amount of any refund which the
9 Company might otherwise enjoy or the cost of replacing or again paying for such license and/or registration plates or other identifying insigna, cards, or papers and/or registration fees and/or taxes for their unexpired term.

Shipping and Service Contracts

14. (a) All contracts and/or Bills of Lading for the hauling of goods, wares, and merchandise and/or other services shall be between the Company and the shipper or consignor. In the event the Truckman has the opportunity to acquire goods, wares, and merchandise for carriage, he will in each specified instance notify either the nearest or the General Office of the Company and furnish sufficient detail to enable the Company to contract for the handling of such shipment in its own name.

(b) It is expressly understood and agreed that the Truckman represents the Company only to the extent authorized by the terms of this agreement and not otherwise.

Other Hauling

15. The hauling of goods, wares, and merchandise by the Truckman for any person other than those under contract with the Company shall constitute a breach of this agreement and the Company shall have the right to immediately terminate same.

Laws

16. The Truckman expressly agrees to comply with all Federal and State laws and the ordinances of each and every City, Village, and Municipality into and through which his motortruck or trucks may be operated, and also the rules and regulations of any governmental agency having jurisdiction over the highways of any State or Province for the operation of said motortruck or trucks, including all laws, ordinances, rules, and regulations relating to licensing, speed, safety devices and equipment, weight tonnage, width, height, length, etc.

Charges

17. The Company may charge to the Truckman's Account any and all expenses incurred by the Company for the express benefit of the Truckman.

Remuneration

18. The Truckman shall be credited with and entitled to receive from the Company in full payment for all services furnished by himself and employees and motortruck or trucks, an amount determined in accordance with Truckman's Rate Schedule, current copy of which is attached to this agreement and copy of which is on file in the General Office of the Company available for the in-

spection of the Truckman, and which amount is designated in such Truckman's Rate Schedule as the Truckman's Income. It is further agree that said schedules will not be changed nor will an rule or regulation be adopted by the Company which will result in reducing the income of the Truckman, as provided in the Truckman's Rate Schedule, without obtaining the written consent of the duly authorized representative of the Truckman.

Precedence

19. This agreement shall supersede, replace, and take precedence over any prior agreement of a similar character between the parties hereto.

11 Cancellation

20. This agreement may be canceled at any time upon the written request of the Truckman or the written notice of cancellation by the Company sent registered mail to the last known address of the Truckman; provided, however, that upon such cancellation, the Truckman shall complete delivery of any goods, wares, and merchandise which he may at the time be engaged in hauling; and provided further, that upon said cancellation the Company may at its option defer final settlement with the Truckman, and during the period of sixty (60) days subsequent to such cancellation, the Truckman shall not entertain any action or suit at law against the Company by reason of any claims arising out of services under this Agreement.

Term

21. This agreement shall remain in full force and effect for the period commencing August 22, 1938, and ending December 31, 1938, and from year to year thereafter, unless terminated by either party as herein provided.

In witness whereof the parties hereto have caused these presents to be executed this 22nd day of August 1938.

GREYVAN LINES, INC.,
By W. W. HEARN,
Treasurer.

M. R. PAISLEY,
Truckman.

Attest:

A. F. SCHERTZBERG,
Assistant Secretary.

12 TRUCKMAN'S RATE SCHEDULE

Effective January 1, 1938

Schedule of Items Covered by Tariff

Item	Truckman's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments
1. Transportation Service Performed.	50% of Tariff.	52½% of Tariff.	52½% of Tariff.	52½% of Bid Price.
2. Accessorial Charges When Services Performed.	70% of Tariff.	No provision.	No provision.	70% of Bid Price.
3. Terminal Services Performed:				
Divided Shipments. (More than one point of pick-up or delivery.)	50% of Tariff.	No Provision.	No Provision.	52½% of Bid Price.
Hoisting	Tariff	No Provision.	No Provision.	Bid Price.
Piano Carry	Tariff	No Provision.	No Provision.	Bid Price.
Waiting Time	50% of Tariff.	No Provision.	No Provision.	No Provision.
Export & Import	None	None	No Provision.	No Provision.
Storage in Transit. (Temporary.)	None	None	None	None.
Special Services. (Not named in Tariff.)	Tariff	No Provision.	No Provision.	Bid Price.
4. Excess Declared Value	50% of Tariff.	52½% of Tariff.	52½% of Tariff.	No Provision.
5. Special Services: Storage, Collection, Charge for C. O. D.	None	None	None	None.

13 *Schedule of Additional Items*

Item	Truckmen's income
6. Deadhead Mileage (See Note 1): NOTE 1: Deadhead mileage is defined as the mileage traveled by the motor truck or trucks without carrying any shipment or portion thereof, to make such motor truck or trucks available for performing transportation services.	10¢ per mile for miles in excess of 25% of the total miles traveled in each calendar month, as determined by verified claim of truckmen. (See Rule 4.)

	Truckmen's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments bid price
7. Bonus (See Rule 6):				
(a) Satisfactory Mechanical & Physical Maintenance	½ of 1%	½ of 1%	½ of 1%	½ of 1%
(b) Satisfactory Service Performed	1%	1%	1%	1%
(c) Satisfactory Personal Appearance & Mental Attitude	1%	1%	1%	1%
(d) Additional Bonus	½ of 1%	½ of 1%	½ of 1%	½ of 1%

Rules Governing the Application of Above Rates

Rule 1. Shipments Transferred: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the truckman's income of each truckman is computed shall be based on the proportion that the miles each truckman carried the shipment bears to the total miles of carriage. For purposes of equity the Company shall have the right to make

adjustments in keeping with the facts and circumstances pertaining thereto and such adjustments shall be considered final. (See Rule 3.)

14 *Schedule of Additional Items*

Item	Truckmen's income
6. Deadhead Mileage (See Note 1). NOTE 1: Deadhead mileage is defined as the mileage traveled by the motor truck or trucks without carrying any shipment or portion thereof, to make such motor truck or trucks available for performing transportation services.	10¢ per mile for miles in excess of 25% of the total miles traveled in each calendar month, as determined by verified claim of truckmen. (See Rule 4.)

	Truckmen's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments bid price
7. Bonus (See Rule 6): (a) Satisfactory Mechanical & Physical Maintenance	½ of 1%	½ of 1%	½ of 1%	½ of 1%
(b) Satisfactory Service Performed	1%	1%	1%	1%
(c) Satisfactory Personal Appearance & Mental Attitude	1%	1%	1%	1%
(d) Additional Bonus	½ of 1%	½ of 1%	½ of 1%	½ of 1%

Rules Governing the Application of Above Rates

Rule 1. Shipments Transferred: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the truckman's income of each truckman is computed shall be based on the proportion that the miles each truckman carried the shipment bears to the total miles of carriage. For purposes of equity the Company shall have the right to make adjustments in keeping with the facts and circumstances pertaining thereto and such adjustments shall be considered final (See Rule 3.)

15 *Schedule of Additional Items*

Item	Truckmen's income
6. Deadhead Mileage (See Note 1). NOTE 1: Deadhead mileage is defined as the mileage traveled by the motor truck or trucks without carrying any shipment or portion thereof, to make such motor truck or trucks available for performing transportation services.	10¢ per mile for miles in excess of 25% of the total miles traveled in each calendar month, as determined by verified claim of truckmen. (See Rule 4.)

	Truckmen's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments bid price
7. Bonus (See Rule 6): (a) Satisfactory Mechanical & Physical Maintenance	½ of 1%	½ of 1%	½ of 1%	½ of 1%
(b) Satisfactory Service Performed	1%	1%	1%	1%
(c) Satisfactory Personal Appearance & Mental Attitude	1%	1%	1%	1%
(d) Additional Bonus	½ of 1%	½ of 1%	½ of 1%	½ of 1%

Rules Governing the Application of Above Rates

Rule 1. Shipments Transferred: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the truckman's income of each truckman is computed shall be based on the proportion that the miles each truckman carried the shipment bears to the total miles of carriage. For purposes of equity the Company shall have the right to make adjustments in keeping with the facts and circumstances pertaining thereto and such adjustments shall be considered final. (See Rule 3.)

16 Rule 2. Left Over Portions of Shipments: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the Truckman's Income of the Truckman or Truckmen handling the left-over portion of shipment is computed, shall be based on the proportion that the cubic footage of the left-over portion of the shipment bears to the total cubic footage of the shipment involved; provided that, for purposes of equity, the Company shall have the right to make adjustments in keeping with the facts and circumstances pertaining thereto, such adjustments to be considered final; and provided further, that in effecting any such adjustment, an amount of such transportation charges, not in excess of 5% thereof, may be deducted from the proportionate amount of such transportation charges allotted to the truckman handling the initial portion of such shipment and added to the proportionate amount allotted to the truckman or truckmen handling the left-over portion of the shipment.

Rule 3. Mileage: Wherever mileage is referred to, it will be computed in accordance with current G. B. Holman Mileage Guide.

Rule 4. Deadhead Mileage Allowance: The Truckman considering himself entitled to Income because of deadhead mileage (Item #6 above) in any month will, on or before the 10th day of the following month, submit written claim therefor to the Company on forms furnished by the Company. The amount of Truckman's Income shall be subject to verification by the Company before making credit to his account.

Rule 5. Split Shipments: (a) A split shipment shall be defined as that portion of the shipment beyond the capacity of the van assigned, and as apportioned by the office, or reapportioned by the truckman involved.

(b) Transportation charges allotted to truckman for handling split load portion of shipment will be based on the proportion that the cubic footage of the split load proportions bear to the total cubic footage of shipment to be transported.

17 Rule 6. Bonus: Bonus earned under Item 7/a, b, and c, will be based on the transportation charges for shipments hauled in any calendar month and such earned bonus will be paid

Form 1

INTER-OFFICE CORRESPONDENCE

Greyvan Lines, Inc.

To .....M. E. Forsley..... Van No. 200 ..... Address.....

From .....A. F. Schertzberg..... Address..... Chicago .....

Subject ...Bonus for Month of September, 1941..... Date.....10-21-41.....

Conforming to the current Truckman's Rate Schedule, your bonus for the above month under Item 7, (a), (b), (c), and (d) is as follows:

Item 7. Bonus	% of Trans. Chgs.	Yes or No	Trans. Charges	Amount Bonus
(a) Satisfactory Mechanical and Physical Maintenance	1%	Yes	1193.86	10.94
(b) Satisfactory Service Performed	1%	Yes		11.84
(c) Satisfactory Personal Appearance and Mental Attitude	1%	Yes		11.84
(d) Additional Bonus	1%	Yes		10.94
Adjustments — Less Bonus Revoked				
Plus Bonus Reinstated Add — Section (d) July 1941 ← ~~1049.44~~				10.44
Section (d) August 1941 ← ~~11 13 86~~ To 10.19				10.40

Your bonus check is attached for ..... Total $ 86.16

Okay, Max, here it is. Now let's stay on top so you may enjoy the maximum month by month.

GREYVAN LINES, INC.

LONG DISTANCE MOVING

CHICAGO, ILL.

10-21-47	9506	0-857		86.16

16 CTS.

A. R. PARSLEY
1518 DRAPER ST.
INDIANAPOLIS, IND.

GREYVAN LINES, INC.
DISBURSING ACCOUNT

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

729107 O - 47 (Face p. 275) No. 8

586.03-CR

STATEMENT

GREYVAN LINES, INC.
CHICAGO, ILLINOIS

MEMO ONLY

AMOUNT DUE YOU 705.41
NOTES RECEIVABLE
PAST DUE
NOT DUE
TOTAL
DEPOSIT 150.00
NET DUE YOU 555.41

Pltf's X-G

NAME M. R. Parsley Van-200
1518 Draper St.
Indianapolis, Ind

PERIOD Sept 1st TO Sept 30, 1941

DATE	CONTRACT NUMBER	MEMO	DESCRIPTION	BASE LOAD	AMOUNTS CHARGED	AMOUNTS EARNED	NET DUE
						BALANCE FOR'D	
SEP 22		9-619	NOTE PAM'T-CHGO				
SEP 22			FRUEHAUF TRAILER CO		64.50		64.50
SEP 22		9-628	NOTE PAM'T-INDPLS				
SEP 22			C.I.T. CORP		81.67		146.17
SEP 27		9-691	PAM'T AUX. CCT.		439.86		586.03
SEP 9	14577	191638	ADV-BUFFALO		27.00		
SEP 3	A2610	197807	ADV-CHICAGO		35.00		621.03
SEP 8	13271	191639	ADV-BUFFALO		8.00		645.70
SEP 12	A8707	70%	PKG	14.75		10.33	656.03
SEP 16	13283	50%	BUFFALO-NEWARK	32.92		16.46	629.24
SEP 17	13271	50%	BUFFALO--HUNTINGTON	61.75		30.87	598.37
SEP 17	14577	50%	BOSTON-NEW YORK	179.46		89.73	
SEP 17	14577	70%	PORT O ROBE	5.00		3.50	505.14
SEP 18	110470	50%	FORMONT--ARLINGTON	~~73.35~~		~~36.68~~	468.46
SEP 19	A8694	50%	BRONXVILLE--LA PORTE	667.29		333.65	
SEP 19	A8694	70%	PORT O ROBE	5.00		3.50	131.31
SEP 22	89786	50%	RICHMOND--LEOIS CITY	102.03		51.02	80.29
SEP 23	A8694	70%	UNPKG	14.75		10.33	69.96
SEP 24	14577	70%	ADJ PORT O ROBE	5.00	3.50		73.46
SEP 24	859137	50%	MEMPHIS--KANSAS CITY	90.13		45.07	28.39
SEP 26	149328	50%	HURON--CHICAGO	370.44		185.22	156.83 cr
SEP 26	149443	50%	NASHVILLE--DENVER	240.93		120.47	277.30 cr
SEP 30	A2610	50%	HIGHLAND PK--SYRACUSE	438.93		219.47	
SEP 30	A2610	70%	PORT O ROBE	5.00		3.50	500.27 cr
SEP 11	A79574	195066	CLAIM-HARTFORD		4.00		
SEP 11	A79594	195067	CLAIM-HARTFORD		4.19		492.08 cr
SEP 12	4455	194140	CLAIM-CLEVELAND		3.00		489.08 cr
SEP 13	A8694	192154	ADV-NEW YORK		40.00		449.08 cr
SEP 16	79574	195076	CLAIM-HARTFORD		5.20		443.88 cr
SEP 17	A2710	192650	CLAIM-DETROIT		3.00		
SEP 17	89786	198765	ADV-CHICAGO		16.00		424.88 cr
SEP 20	149443	198818	ADV-CHICAGO		26.00		398.88 cr
SEP 21	859137	198830	ADV-CHICAGO		13.00		385.88 cr
SEP 27	149328	198987	ADV-CHICAGO		19.00		366.88 cr
SEP 18	110470	50	DIDNOT MAKE HAUL	~~73.35~~	~~36.68~~		330.20 cr

SEP 18	110470	50	DIDNOT MAKE HAUL	~~73.35~~	~~36.68~~		330.20
SEP 30		JV 9-19	GASOLINE		158.83		171.37
SEP 30		JV 9-26	HOSPITAL INS.		2.00		169.37
SEP 30		JV 9-31	ALLOW WGT SLIPS 50%-1.50			.75	170.12
SEP 30		JV 9-2	PL & PD INS		43.68		
SEP 30		JV 9-2	FIRE THEFT, COLLI INS		18.15		108.29
SEP 30		JV 9-10	COL. MIL TAx			.75	
SEP 30		JV 9-10	TENN WIRE			.58	
SEP 30		JV 9-10	KANS MIL TAX			9.28	
SEP 30		JV 9-10	TENN WIRE			.48	119.38
0	AUG 31, 1941		BALANCE BROT FOR'D			586.03	705.41

729107 G - 47 *Face p. 275) No. 5

ACCOUNTS PAYABLE VOUCHER

GREYVAN LINES, INC.

LONG DISTANCE MOVING
CHICAGO, ILL

DATE	CHECK NUMBER	VOUCHER NUMBER	THE SUM OF	AMOUNT
10-28-41	9826	10-977	EXACTLY 559 AND 24 CTS	559.24

PAY TO THE ORDER OF

N. R. PARSLEY
1518 [illegible] PER ST.
INDIANAPOLIS, IND.

GREYVAN LINES, INC.
DISBURSING ACCOUNT

TREASURER

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

DETACH BEFORE DEPOSITING

GREYVAN LINES, INC.
CHICAGO, ILL.

INVOICE NO.

Pkp. X-F

SEPT ACCOUNT		705.41
NOTE 10/24	64.50	
NOTE 10/24	81.67	146.17
		559.24

GREYVAN LINES, INC.

LONG DISTANCE MOVING

CHICAGO, ILL.

DATE	CHECK NUMBER	VOUCHER NUMBER	THE SUM OF	AMOUNT
6-[illegible]-61	9626	[illegible]-977	EXACTLY $559 AND 24 CTS	559.24

PAY TO THE ORDER OF

M.&R. PARSLEY
1518 DRAPER ST.
INDIANAPOLIS 3, IND.

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

GREYVAN LINES, INC.
DISBURSING ACCOUNT

[illegible]
TREASURER

[illegible]

PAYABLE VOUCHER

GREYVAN

GREYVAN LINES, INC.

LONG DISTANCE MOVING
CHICAGO, ILL.

GREYVAN

7-31-41 1389 7-692 98.24

GREYVAN LINES, INC.
DISBURSING ACCOUNT

M. R. PARSLEY
1218 DRAPER ST.
INDIANAPOLIS, IND.

CITY NATIONAL BANK
AND TRUST COMPANY

GREYVAN LINES INC.
CHICAGO

PAY TO JUNE ACCOUNT		244.41
LESS AMT PAID AT 7/28	81.67	
" " 29	64.50	146.17
		98.24

GREYVAN LINES, INC.

LONG DISTANCE MOVING
CHICAGO, ILL.

CASH
FOR CUSTOMER

DATE	VOUCHER NUMBER	VOUCHER NUMBER	THE SUM OF	AMOUNT
7-[illegible]	6389	7-692	GREYVAN LINES INC. 98.24	98.24

PAY TO THE ORDER OF

M. R. PARSLEY
1518 DRAPER ST.
INDIANAPOLIS, IND.

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

GREYVAN LINES, INC.
DISBURSING ACCOUNT

[redacted]

729107 O - 47 (Page p. 275) No. 3

2

HOUSEHOLD GOODS—MOTOR CARRIERS

THIS SHIPPING ORDER must be legibly filled in, in carbon, and forwarded with the shipment.

Agent's No. _____ Shipper's No. 11566-2

GREYVAN LINES INC., 1338 So. Michigan Ave., Chicago, Illinois

Received, pursuant to Order for Services (if any) and subject to the classifications and tariffs, rules and regulations in effect on the date of the issue of this Bill of Lading.

Issued at _____ Date _____ 19__

From A. B. Figgins,

Address 910 Phillips Street, Floor _____

City Yellow Springs, State Ohio

The property described below (contents and conditions of contents of packages unknown) consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to destination indicated below, if within the scope of its lawful operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all conditions not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by shipper and accepted for himself and his assigns.

Consigned to A. B. Figgins,

Address 186 N. Oakland, Floor _____

City Arlington, State Va.

Delivering Carrier Greyvan Lines, Inc. I. C. C. No. MC14788

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of consignor.)

DESCRIPTION OF PROPERTY	WEIGHT (Subject to Correction)	RATE	CHARGE
H.H.Goods - as per inventory attached			

Class I Table A Rates Apply

All advances and lawful charges must be paid in cash, money order or certified check before carrier delivers or relinquishes possession of the property, unless otherwise indicated below by carrier.

ARTICLE	Excess Value
None	

Total Excess Value _____

C.O.D.

Received $ _____ to apply in prepayment of the charges of the property described herein.

Agent or Driver

Per _____

(The signature here acknowledges only the amount prepaid)

NOTE: Shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding $ .30 per pound, per article.

The shipper hereby declares valuations in excess of the limit set forth above as shown opposite on specific articles:

GREYVAN LINES, INC.

Shipper Mrs. A. B. Figgins

Per [illegible] Agent H R Perley

WEIGHT CERTIFICATE

(See Summary For Net Weight of Load)

Certificated weights of vehicle before and after loading are as shown below:

Date 6/1/41 19	Date 6/2 19 41
TARE WEIGHT: 17350 Lbs.	GROSS WEIGHT: 24980 Lbs.
Weighmaster [illegible]	Weighmaster [illegible]
Scale Owner City Dept Scales	Scale Owner [illegible]
Location of Scales (Address) West Main	Location of Scales (Address) [illegible]
City Dayton State Ohio	City [illegible] State [illegible]

6Q12878

NET WEIGHT SUMMARY

Gross Weight 24980

Tare Weight 17350

Net Weight 7630

This is to certify that the above is the correct weight of this shipment.

Van No. 200

H R Perley Trackman

Plffs X-03

GREYVAN

GREYVAN LINES, INC.
CHICAGO, ILL.

INSTRUCTIONS TO TRUCKMAN

Van No. 700 Driver Parsley Shipper A. B. Figgins Order No. 11566-2

Cu. Ft. 1000 Issued at Dayton, O. Date 5/31/41 Received by Truckman: Date Time

SPECIAL INSTRUCTIONS TO DRIVER:

Make inventory very carefully. Have shipper sign B/L.

Secure certified weights and record on Bill or Lading in the regular manner.

~~Plffs X-03~~

CORRECT RATE WILL BE FOUND ON PAGE #25 - TARIFF #14 SECTION 2, CLASS 1, TABLE A.

Chas F Allen
% Silver Mfg Co
1703 N. Main St

LOADING

Date Time Promised Shipper

City Yellow Springs, State O.

Street 410 Phillips Street, Floor

Date Actually Loaded

Hour Started Loading A.M. P.M. Hour Finished A.M. P.M.

Helpers

If Delayed Loading Give Reason

Name of Branch Representative at Loading Point

UNLOADING

Date Hour

City Arlington, State Va.

Street 125 N. Oakland Floor

Arrived Destination—Date 6/3/41

Date Unloaded From A.M. To A.M. P.M. To P.M.

Helpers

If Delayed Unloading Give Reason

IMPORTANT

MAIL CARD TO GENERAL OFFICE SHOWING NET WEIGHT AND ANY ADDITIONAL CHARGES TO BE MADE TO SHIPPERS.

IF UNABLE TO UNLOAD AS SCHEDULED ADVISE DISPATCHER BY WIRE.

IF WE MAINTAIN OFFICE OR AGENT IN CITY WHERE UNLOADING TELEPHONE SAME ON ARRIVAL.

AFTER UNLOADING REPORT TO: Washington — In Person / By Wire / By Telephone

X **COLLECT (See Freight Bill for Charges)**

BILLED TO:

Unless otherwise stated above you are to accept Cash, Certified Check, Bank Draft, or Money Order payable to Greyvan Lines, Inc, only before unloading.

By A. E. Hammond, Office Dayton, O.

Freight Bill Computed By .....

Freight Bill Checked By .....

Name of Branch Representative at Unloading Point .....

COLLECTION RECEIVED: AMT. $ 304.10

Denote how Payment Received Cash

Invoice Received O.Ked and Forwarded to G. O.

See Service Report

See Letter Attached

Signed .....

Office ..... **Date** 6/4, 194

729107 Q - 47 (Face p. 275) No. 1

by a separate check each month at the same time the Truckman's monthly statement is issued.

The additional bonus of ½ of 1% of transportation charges set out under Item 7d, will be paid to any truckman who has earned the maximum bonus of 2½% of transportation charges for any period of three consecutive calendar months. This bonus when earned will be paid to the truckman at the same time as his monthly bonus is paid.

When the truckman has earned the additional bonus he will continue to receive the additional bonus monthly until he fails to receive the maximum bonus in any calendar month.

When the truckman fails to earn the maximum monthly bonus of 2½% for any calendar month he must then earn the maximum bonus of 2½% for three consecutive calendar months before he becomes eligible for the additional ½ of 1% bonus.

26 *Plaintiff's Exhibit J*

STATEMENT SHOWING TRANSPORTATION REVENUE AND GROSS CONTRACT EARNINGS OF GEORGE BOSSERT, A CONTRACT TRUCKMAN

Vehicle approximately 1,325 cubic feet

Period from March 1941 up to and including April 1943

Month	Transportation revenue at tariff rates	Gross contract earnings
1941		
March	$1,496.80	$811.67
April	1,894.69	1,005.56
May	1,461.43	885.76
June	1,427.06	864.90
July	1,648.79	885.24
August	2,565.25	1,382.71
September	2,188.14	1,161.54
October	1,549.85	828.48
November	2,171.91	1,218.07
December	1,079.54	634.10
Total 1941	17,483.86	9,678.03
1942		
January	2,286.71	1,242.49
February	1,771.42	952.28
March	2,485.39	1,360.68
April	2,815.92	1,546.17
May	3,207.76	1,720.58
June	2,807.28	1,569.40
July	457.83	242.65
August	3,005.98	1,658.42
September	2,889.96	1,570.68
October	2,384.81	1,368.01
November	2,233.91	1,186.91
December	2,438.66	1,368.90
Total 1942	28,785.63	15,707.27
1943		
January	1,815.28	993.49
February	2,885.41	1,595.04
March	1,187.24	628.69
April	2,791.29	1,516.07
Total 1943	8,679.22	4,733.29
Grand total	54,948.71	30,118.59

27 *Plaintiff's Exhibit K*

STATEMENT SHOWING TRANSPORTATION REVENUE AND GROSS CONTRACT EARNINGS OF MAX PARSLEY, A CONTRACT TRUCKMAN

Vehicle approximately 1,325 cubic feet

Period from January 1941 up to and including April 1943

Month	Transportation revenue at tariff rates	Gross contract earnings
1941		
January	$1,415.36	$788.37
February	1,250.22	690.37
March	1,662.93	919.67
April	1,347.05	754.08
May	1,367.80	746.36
June	1,256.42	650.82
July	2,049.22	1,094.82
August	2,080.19	1,103.95
September	2,183.86	1,210.20
October	1,463.53	798.85
November	1,925.44	1,042.51
December	1,459.29	807.56
Total 1941	19,691.12	10,612.60
1942		
January	1,145.11	651.34
February	1,971.84	1,105.91
March	2,000.72	1,125.07
April	1,664.75	910.64
May	3,137.26	1,716.44
June	2,794.05	1,505.50
July	2,580.82	1,395.00
August	1,493.34	796.37
September	1,919.58	1,024.79
October	2,695.02	1,451.01
November	2,240.10	1,214.85
December	1,092.49	600.83
Total 1942	24,742.21	13,497.85
1943		
January	1,789.34	963.08
February	1,965.53	1,066.35
March	2,084.17	1,136.36
April	2,652.88	1,438.92
Total 1943	8,491.92	4,604.73
Grand total	52,925.25	28,715.27

28 *Government's Exhibit 1*

GREYVAN LINES, INC., MANUAL FOR TRUCKMEN

INTRODUCTION

The purpose of this manual is to give the truckmen of Greyvan Lines a clear and concise picture of the proper methods to follow in their operations. The manual will, of course, fail in its purpose if truckmen do not read it thoroughly, refer to it frequently, and follow all instructions diligently.

No rule or regulation has been included which to our knowledge, is not to the best interests of the Company and entirely reasonable.

The Company sincerely trusts that this manual will assist our already fine organization of truckmen to render an even more efficient service.

29 CONTENTS

The contents of this book are divided into nine sections, which are listed below in numerical order.

Each section has several subheadings for easy reference. These are listed in alphabetical order under the various sections on the pages immediately following:

1. General Rules.
2. Procedure.
3. Special Information.
4. General Maintenance.
5. Inside Equipment.
6. Care of Truck—Physical.
7. Safety Rules.
8. Credit Cards.
9. Lists of Offices, Agents and Parking Lots.

30 INDEX TO CONTENTS

General Rules—Section 1

Subject	Paragraph
Attitude	8
Being on Time	27
Changing Drivers	16
Cleanliness	11
Conduct	15
Company Drivers	18
Conflict Between Laws and Rules	5
Deadheading	28
Driving Vehicles of Shippers or Others	24
Duties	1
General Letters	3
Helpers	17
Interior of Cab	25
Intoxicants	12
License Plates	20
Manual Changes	2
Obedience to Laws	4
Obligations	21

Subject	Paragraph
Painting and Lettering	26
Parking Lots	19
Personal Matters	13
Physical Examination	7
Routing	23
Time Off	22
Truckman's Responsibility	6
Uniforms	10
Union	9
Women on Vans	14

Procedure—Section 2

	Advising Shipper of Charges	18
	Arrival at Destination	22
	Arriving Ahead of Schedule	21
	Bill of Lading	14
	Checking Instructions to Truckman	2
	Checking Inventory	27
	Checking Packing	7
	Checking Refrigerator	6
	Checking with Shipper	13
	Collections	24
	Completing Instructions to Truckman	30
	Completion of Job	28
	Delay Enroute	20
	Determining the Rate and Completing Freight Bill	16
	Loading and Checking	12
	Making Inventory	5
	Other Preparations	11
	Placing of Protective Coverings	9
	Placing Stickers on Containers	8
	Port-O-Robes	10
	Postal Card	17
31	Preparing for Next Shipment	32
	Presentation at Shipper's Home	4
	Proceeding to Destination	19
	Reporting from Destination	23
	Securing Instructions to Truckman	1
	Securing Gross and Net Weight	15
	Securing Tare Weight	3
	Service Report	29
	Turning in Inst. to Truckman & Supporting Papers	31
	Unloading	25
	Unpacking	33

Special Information—Section 3

Subject	Paragraph
Bill of Lading.	
Claims.	
Freight Bill.	
Furniture Loading and Unloading.	
Weight Basis (Interstate Commerce Commission Ruling).	
Helpers.	
Inventory.	
Mileage Chart.	
Packing.	
Presentation to Shipper.	
Preparation for Loading.	
State Regulations.	
Tariff Questions and Answers.	

General Maintenance—Section 4

Accessories	5
Anticipating Repairs	2
Monthly Equipment Report	3
Motor Oil	6
Replaced Parts	46
Routine Habits	1
Urgent Repairs	4
Winter Operation	41
Tires	7

Inside Equipment—Section 5

Canvas Floor Strips	8
Dollie	6
Furniture and Mattress Covers	10
Hopsacking or Burlap	2
Inside Cleanliness	11
Pads	1
Piano Skid	5
Port-O-Robes	12
Refrigerator Covers	9
Rope	3
Rubber Bands	4
Tarpaulin	7

32

Care of Truck—Physical—Section 6

Subject	Paragraph
Cleanliness	1
Roof	5
Rust Spots	3
Soap	2
Wheels	4

Safety Rules—Section 7

Accidents:	
Instructions and Reporting	12
Personal Injury	12A
Property Damage	12B
Accidental Injury to Company Driver	12B
Adequate Space Between Vehicles	11
Backing	7
Brakes	2
Interstate Commerce Commission Safety Regulations	1
Lights	5
Open Range	9
Parking	3
Passing	10
Precaution Railroad Crossing	10
Speed	1
Turn Signals	6

Credit Cards—Section 8

Container	1
Credit Cards Property of Greyvan	7
Driver Only May Use Credit Cards	2
Gas Stations to be Used	5
Gasoline, Grease, and Oil Purchases Only	4
Lost Card	3
Receipts	6

List of Offices, Agents, and Parking Lots—Section 9

See 1st page of Section 9 for method of use.
See second page of Section 9 for alphabetical list of states.

33

LOYALTY

If you work for a man, in Heaven's name work for him. If he pays you earnings that supply your bread and butter, work for him—speak well of him—think well of him—stand by him and stand by the institution he represents.

I think if I worked for a man I would work for him. I would not work for him a part of the time and the rest of the time against him. I would give an undivided service or none. If put to the pinch, an ounce of loyalty is worth a pound of cleverness.

Author Unknown.

The malcontent—the grumbler—is not only a misfit but a reflection on the character of the organization of which he is a part and on every coworker. He usually lacks the moral courage to face the facts, admit his own shortcomings and discusss his problems or complaints with those who can solve or satisfy them. He broods, lacks self-confidence, and develops an unwarranted feeling of injury with thoughts of vengeance. He becomes uncertain of friend and foe—unfair to himself and others—a betrayer of himself and coworkers—a Coward.

Loyalty is a product of mutual confidence and respect—a sameness of interest and purpose.

Don't worry yourself and other Truckmen or employees with your problems and difficulties—take them up fairly and frankly with the department heads in the General Office. You will receive every courtesy and consideration.

Be Loyal and Wear the Smile of Satisfaction

34 SECTION 1—GENERAL RULES

The following pages contain General Rules of the Company and should be read very carefully and at frequent intervals. No criticism will befall a truckman who follows these rules and regulations carefully.

35 GENERAL RULES

1. Duties.—Truckmen's duties are prescribed by the rules herein contained and such additional orders as may be hereafter issued by the General Office. If in doubt as to the meaning of any rule, the driver should immediately apply to the nearest office for explanation. Ignorance of the law or of any rule of the Company will not be accepted as an excuse.

2. Manual Changes.—This book contains the fundamental rules. When changes in the instructions outlined in this manual are necessary, they will be issued by the General Office to all drivers. The changes will be accompanied by instructions as to where they are to be placed in the manual.

3. General Letters.—Special conditions require bulletins and general letters to be issued from time to time. These will be issued by the various departments of the General Office to each truckman. These are issued from time to time as general reminders of instructions or special instructions to cover temporary conditions. They will not be filed in the manual but may be destroyed after the driver has noted the contents.

4. Obedience of Laws.—Truckmen must be familiar with and obey all laws and traffic regulations regarding the operation of motortrucks in the various cities, counties or states in which they may be operating, and the rules and regulations issued by the I. C. C.

5. Conflict Between Laws and Rules.—No rule will be promulgated that is in conflict with law, but in some instances rules may be more strict than the legal requirements and truckmen must therefore, be familiar both with the laws governing the operation of their vehicles as well as the rules of the company on the same subject.

6. Truckmen's Responsibility.—The truckman is held responsible for:

A. The strict observance of all rules and instructions that may be issued.

B. Safe operation of the truck.

C. The proper handling, packing, and protection of all shipments which we haul.

D. The proper maintenance of the truck and other equipment issued to him.

E. The proper completion and forwarding of all reports, forms and papers that the company may prescribe.

36 F. The truck being clean and orderly both inside and outside.

G. The making of proper accident reports when required.

H. All monies intrusted to his care including advances and collections.

I. The conduct and appearance of his helpers when on duty.

J. Prompt and detailed reports on any matters of interest to the company.

7. Physical Examination.—The Company may require any driver to submit to a physical, or other examination at any time.

8. Attitude.—It is expected that at all times the attitude and conduct of the driver will be in the best interest of the Company. Any suggestions or complaints should be presented in writing or in person at the General Office where the matter will be given full consideration.

9. Union.—Truckman must be a member in good standing of the A. F. of L. Van Driver's Union Chicago Local #711.

10. Uniforms.—The company has adopted a uniform consisting of Greyvan Blue Uniform cap, jacket, trousers, or breeches, and Greyvan Gray uniform shirt, all to be worn with black necktie, belt and shoes or boots.

11. Cleanliness.—Truckmen and helpers must report at loading and unloading points cleanly shaven and with clean and neat clothing.

12. Intoxicants.—No truckmen shall come on duty under the influence of even one drink of alcoholic liquor or beverage, nor shall any truckman drink any alcoholic liquor or beverage while on duty, nor carry alcoholic liquor or beverage on his person. Intoxication while on duty will be cause for immediate dismissal.

13. Personal Matters.—The mental attitude of the truckman, his freedom from unusual cares and worries, is important in the satisfactory performance of his duties. For this reason the Company objects to truckmen having continual domestic troubles, outside business worries, attachment suits, garnishments, assignments of wages, and other personal difficulties when it appears that because of such troubles the truckman is not free to devote his entire attention to his duties.

14. Women on Vans.—No woman, whether wife, sweetheart, mother, sister, daughter, or "hitch-hiker" is allowed on any van at any time. Not only do Insurance Companies prohibit this, but it is also illegal in many states.

15. Conduct.—Truckmen and helpers must be diplomatic, courteous and tactful in dealing with shippers and others. The Company expects truckmen and helpers to be gentlemen at all times. Truckmen are not to smoke while in the shipper's home, nor inside of the van.

37 16. Changing Drivers.—No truckman may turn his van over to his helper or other person without specific authority from the General Office.

17. Helpers.—Truckmen must see that all helpers abide by the rules contained herein. Whenever helpers are hired by a truckman, he shall employ members in good standing of Local Unions of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, who are duly qualified to perform such services, whenever they are available, and shall pay his said helpers the prevailing rate of pay of Local Unions. Whenever any truckman is operating into or out of any location where a strike condition exists effecting his operation, he must first contact the proper representative of the Union in that section, explain to him your actual business at that point and your

desired operation and obtain from him complete instructions and abide strictly thereto. No one may ride on Company owned vans except men hired by the Company and assigned to the van, except helpers riding locally between parking lot and loading or unloading point.

18. Company Drivers.—When there is a packing or unpacking job to do on an order which they are handling, and they have sufficient time, it is logical to expect that they do this. Any advance given for this purpose is to be charged to them in the regular way and entered on their Truckman's Weekly Report. Any expenditure by them for packing materials or help is likewise to be entered on these reports, and receipts obtained for all expenditures in the regular manner. When drivers of Company trucks are on parking lots and have time available, namely time over and above that necessary to properly take care of their own truck and equipment, it is expected that they will help other Company drivers in loading and unloading, without additional compensation.

19. Parking Lots.—Truckmen must patronize and be available only at parking lots designated by the Company. Each van shall purchase as much gas as possible at designated lots.

20. License Plates.—Display only the regular state license plate for the van, together with the I. C. C. plates and the individual plate necessary for that state in which van is traveling. Carry all plates, not in actual use, inside the van.

21. Obligations.—The truckman will not incur any obligation in the name of the Company, nor open any charge accounts in the name of the Company, whether for repair, maintenance or operation of his truck, or otherwise, without written consent from the General Office of the Company first had and obtained in each instance.

22. Time Off.—Under no circumstances are Truckmen to take time off at home or elsewhere except on authority of the General Office.

23. Routing.—On all trips the driver is to take the most practicable route between the two designated points except as otherwise dispatched.

38 24. Driving Vehicles of Shippers or Others.—All drivers are forbidden to use or drive the vehicles of shippers or others for any purpose in connection with the Company's business. Such activity is not only ill advised but is definitely beyond the scope of the "Truckman's Agreement" or employment by the Company.

25. Interior or Cab.—The interior of the cab is to be neat and orderly. There are to be no postcards, pictures of nudes, souvenir pennants, etc., in the cab. Any curtains in the windows of the cab are to be plain blue or white.

26. Painting and Lettering.—Only authorized paint, color; design, and lettering are to be used.

27. Being on Time.—We cannot stress too strongly the great importance of being on time to load or unload. If the Truckman reports late, the shipper will be disgruntled, and he will find his job much more difficult. Should there be any delay due to unforeseen circumstances, be sure that the proper parties are advised.

28. Deadheading.—Schedules for deadheading are as important as schedules when Truckman is handling a shipment. Should there be any delay en route, proper parties must be advised. Truckman cannot, of course, expect to load at 8:00 A. M. in the morning if he reports for Instructions at 8:00 A. M. He should be sure to receive Instructions in sufficient time to make all necessary arrangements for proper help and loading.

39 SECTION 2—PROCEDURE.

The following pages outline the procedure to be followed from the time the truckman receives instructions to load (Instructions to Truckman) until he finishes his job and prepares for the next shipment. Truckman should be fully acquainted with every phase of this important work and should review these instructions from time to time to see that they are followed very carefully.

40 1. Securing Instructions to Truckman.—When truckman is scheduled to load, he will receive Instructions to Truckman and other supporting papers which include Inventory form in duplicate, Bill of Lading in quadruplicate, Freight Bill in duplicate, Service Report, postal card for weight information, and Packing Order (when necessary).

Instructions to Truckman and other papers may be secured:

a. From the local office.

b. From the local agent.

c. By wire.

In cases where instructions are received by wire, truckman must complete Bill of Lading and other papers and Instructions to Truckman will be mailed to him at destination.

The Instructions to Truckman will show the loading date and unloading date as well as other pertinent information such as order number, name of shipper, size of load, where and how to report after unloading, etc.

Truckman will be given their Instructions to Truckman so that loading schedule may be met. Should there be any delay, truckman is to advise the local office or Dispatcher, as the situation may require.

2. Checking Instructions to Truckman.—It is the duty of the truckman to review the Instructions to Truckman very carefully to see that the schedule may be met and to understand full details regarding the shipment, such as time required to reach loading point, floor, and nearest route, number of heavy pieces such as pianos, refrigerators, etc., and size of shipment so as to determine the number of helpers necessary.

As soon as Instructions to Truckman are received, truckman will make necessary arrangements to reach loading point at time scheduled.

3. Securing Tare Weight.—Tare weight must be secured and entered on the Bill of Lading in the space provided before loading. Tare weight is determined as follows:

a. Tare weight is the weight of the vehicle with no shipment on board and without the crew, but with a full gasoline tank and fully equipped with pads, etc., or

b. Tare weight for part loads is the weight of the equipment as before, plus weight of the shipment or shipments on board.

A scale directory has been furnished to all drivers giving the locations of scales in various parts of the country. Local offices and agents will assist in determining the nearest available scale.

41 4. Presentation at Shipper's Home.—The truckman only will approach the shipper while his helpers are opening the van and preparing it for loading. He must explain to the shipper how he is going to handle their move. He should explain that he will be in complete charge of the van at all times and will be glad to cooperate in any special request that the shipper may make. He will explain the matter of making the Inventory and proceed at once. (See Paragraph 13.)

5. Making Inventory.—Follow carefully instructions as outlined in section referring to Inventory.

6. Checking Refrigerator.—Truckman must see that every make refrigerator has been properly serviced. If refrigerator has not been serviced, there are several procedures to follow:

a. If in a city where we maintain an office or agent, arrange with them to immediately service the unit.

b. If he is in a city where we do not maintain an office or agent, arrange with the local service man to properly service the refrigerator, or he may service same if he understands how to properly perform the work. THIS IS IMPORTANT. Be sure trays and racks are removed and packed or fastened tightly.

7. Checking Packing.—Truckman should see that all packing services have been properly performed. He should not take any chance of handling articles such as plate glass tops, fragile, un-

framed mirrors, lamp shades, clocks, etc., unless same have been properly prepared for shipment. If packing service has not been properly performed, call local office or agent and see that the balance of the packing is done. If no local office or agent is available, either arrange with shipper to do the additional packing or he must pack the goods to properly protect them. For this purpose, all truckmen should carry at least one small, one medium, and one large collapsible carton at all times.

8. Placing Stickers on Containers.—Shipments packed by regular Greyvan packers will bear large oval stickers indicating the order number, shipper's name and contents. There will also be stickers to indicate "GLASS," "LAMP SHADES," "FRAGILE," "THIS SIDE UP." If any carton, barrel, box, crate, or other container which does not bear a large oval label indicating that the packing has been done by Greyvan, place thereon a small oval label showing the order number and shipper's name, indicating that the packing has been performed by the shipper.

9. Placing of Protective Coverings.—While truckman is completing the Inventory, his helpers will place various protective coverings such as mattress, covers, piano covers, refrigerator covers, davenport covers, etc. These special coverings will be placed on the furniture before the items are removed from the residence but after such items have been listed on the Inventory.

42 10. Port-O-Robe.—If Port-O-Robe service has been specified, garments will be carefully placed in the Port-O-Robe so that they will not be mussed.

11. Other Preparations.—Mirrors will be removed from dressers, etc., pictures from walls, bed taken apart, and any necessary items dismantled. Casters, screws, and other small removable objects will be placed in a small bag and attached to the item from which they were removed.

All rugs must be rolled and properly packed in the van so that they will not crease.

12. Loading and Checking.—The truckman will load his own van and designate the pieces to be brought to him by the helpers. No items are to be left unprotected in hallways, alleys, or on the lawn. As nearly as possible, the driver should request only those pieces to be brought to the van which may be immediately placed therein. If an item cannot be packed at once, it should be placed where it is properly protected. When it is thought that all items have been removed, the truckman must personally check the attic, basement, garage, store rooms, closets, built-in cabinets and drawers, behind all doors, shelves, and elsewhere to make absolutely certain that nothing has been overlooked.

13. Checking With Shipper.—Before leaving, truckman should be sure to discuss with shipper:

a. Expected unloading date and time as scheduled by the Dispatcher.

b. Ascertain if unloading address is correct.

c. Ascertain how to get in touch with shipper at destination.

d. Determine how shipper will pay charges and how payment will be made if the shipment is C. O. D.

e. Any special requests of shipper.

14. Bill of Lading.—The Bill of Lading is a very important document and must be properly handled.

a. All copies of the Bill of Lading must be signed by shipper and driver.

b. All information must be completed.

c. All copies must show tare weight.

d. Gross weight and net weight will only be shown on the last three copies.

e. Original copy is to be given to the shipper.

43 f. 1. The remaining three copies will be turned in to the General Office on billed shipments, but

2. Fourth copy will be delivered to shipper with original receipted copy of Freight Bill on C. O. D. shipments.

15. Securing Gross and Net Weight.—The gross weight is the total weight of the vehicle and shipment or shipments thereon. It is preferred that the gross weight be determined on the same scale as the tare weight was secured, but this is not absolutely necessary. Certified weigh master must enter the gross weight on all copies of the Bill of Lading. The net weight of the shipment is determined by deducting the tare weight (weight before loading) from the gross weight (weight after loading). Net weight is the basis on which the transportation charges are determined.

16. Determining the Rate and Completing Freight Bill.—The truckman will have received the Freight Bill in duplicate with his Instructions to Truckman, but should carry a small supply to be used in emergencies. The Freight Bill must show the charges for all services rendered as well as the gr[illegible], tare, and net weights. Usually when the Freight Bill is received by the truckman it will be completed except for the showing on the Freight Bill the gross, tare, and net weight, the computation of the transportation charges, and, where the truckman does packing, the packing charges and unpacking charges will have to be completed by the truckman in addition to the total of the Freight Bill.

When a shipment has been loaded and weighed the truckman will, if at all possible, without delay call at the office, or agent,

and have the Freight Bill completed. If, however, it is impossible to make a personal call at the office, or agent, due to distance from the office, or agent, time of day, etc., the truckman will telephone the office, or agent, and they will furnish the weight per hundred pounds and the transportation charges together with the total amount of the Freight Bill. Upon receipt of this information the truckman will complete the Freight Bill by showing the gross, tare, and net weight in spaces provided (taken from the Bill of Lading weight certificate). Enter the net weight and rate per hundred pounds and total transportation charges in line provided for transportation. Then enter total charges of Freight Bill in spaces provided. This completes the billing of a C. O. D. shipment.

If a truckman finishes loading after office hours, he may contact an office or agent en route between origin and destination, or if there is an office or agent at destination, he may contact that office or agent who will furnish the rate per hundred pounds and the total transportation charges. Truckman should also ask office or agent to check his addition of the total charges. Truckman should likewise check the transportation charges when given over the phone to be sure that there has been no error in entering the figures. If there is no office or agent that can be contacted at loading point, en route, or destination, the truckman should wire the General Office for the charges. This wire should show the order number, name, and net weight of shipment, and where the reply is to be sent. For example, assuming truckman is wiring from Joplin, Missouri, regarding order number 2000 Jones, which carries the net weight of 6,500 pounds and he desires the reply to be sent in care of Western Union. His wire should read: "Net weight 6,500 pounds Jones order 2,000 wire care Western Union Joplin, Missouri."

The General Office will reply and advise him the rate per hundred pounds and total transportation charges.

When completing a C. O. D. Freight Bill be sure that carbon is used to that the duplicate copy will show the charges that were made to the shipper. There can be no exceptions.

When payment is received by truckman he will receipt both copies of the Freight Bill and give original receipted copy to shipper together with the 4th copy of the Bill of Lading. The 4th copy of the Bill of Lading is necessary since it gives the shipper the weight of the shipment.

The handling of billed shipments is entirely different from C. O. D. When a shipment is to be billed the Freight Bill will be made out by the Branch in the same manner as C. O. D, and two copies delivered to the truckman. Truckman need only obtain the signature of the shipper on both copies of the Freight Bill as billing

will be completed by the General Office. Both copies of the Freight Bill and three copies of the Bill of Lading must be sent to the General Office with the other papers.

17. Postal Card.—With each set of instructions truckman will receive a postal card. This card is to be filled in as soon as he has secured the net weight of the shipment. Complete all details and mail the card to the General Office immediately. A small supply of these cards must be carried at all times to be used in emergencies where the card has not been furnished with Instructions to Truckman.

Unless the card is mailed promptly to the General Office giving the information requested, truckman will not receive credit on his monthly statement on the date loaded. It will also hold up commissions to salesmen and agents.

18. Advising Shipper of Charges.—On C. O. D. orders the shipper may desire to know the amount he is to pay at destination so that he may have funds available for this purpose. It is important that proper arrangements be made to notify the shipper as early as possible as to the exact charges.

1. When the transportation charge is determined by the office or agent and the shipper desires to know the charges, that office or agent should advise the shipper by telephone or wire, if necessary, of such charges.

2. If charges are determined by wiring the General Office, then the truckman should notify the shipper upon receipt of the charges in whatever manner the shipper has requested such information.

45 19. Proceeding to Destination.—Truckman should proceed enroute to destination as quickly as possible after loading. However, no truckman is to leave point if he has space available until

a. Notifying the local office, if any, and receiving instructions to proceed.

b. Wiring the Dispatcher if there is no local office advising him space available and awaiting his advice.

Truckman must proceed via the most direct route from loading point to destination unless otherwise instructed by the Dispatcher. Truckman must observe the unloading date as specified on the Instructions to Truckman or by the Dispatcher and arrive at destination so as to be prepared to unload on or before 10 a. m. of the unloading date specified. Schedules must be met as specified by the Dispatcher or proper notification must be given.

20. Delay Enroute.—Should truckman be delayed enroute and unable to arrive at destination before 10 a. m. of the unloading date, the Dispatcher must be advised. Such information must,

of course, be sent prior to the time as scheduled to unload. When the Dispatcher is advised of a delay, he must always be advised of the arrival time at destination. Should there be a second or third delay, Dispatcher must likewise be notified in time to make necessary changes in schedules.

21. Arriving Ahead of Schedule.—Should truckman find that he can arrive at destination earlier than called for in his schedule, he is likewise to advise the Dispatcher of such earlier arrival in order that he may make necessary schedule changes.

22. Arrival at Destination.—a. If we have an office at destination, report to the office before unloading if possible. If office is not open, proceed to unloading point but telephone office not later than 9 a. m.

b. If unloading in a city where we maintain an agent, truckman may communicate with the agent securing help from him if necessary and make arrangements with the shipper to unload.

c. If no office or agent, communicate with the shipper immediately and arrange unloading.

46 23. Reporting from Destination.—a. If we have an office at destination, of course, instructions will be issued from that point.

b. In all other cases, truckmen will report to the General Office by wire when arrangements have been made for unloading but before actually unloading. Such report will be made by Tourate message similar to the following: "Arrived 8 a. m. leaving " p. m."

By the time unloading is actually completed, Dispatcher will probably have instructions at the telegraph office for him, but under no circumstances will truckman leave until he has instructions from the Dispatcher.

24. Collections.—If collection is to be made, truckman may only accept such collections in the form of cash, certified check, bank draft, or money order payable to Greyvan Lines, Inc., unless otherwise instructed. In case shipper has had draft or money order made payable to himself, be sure that same is properly endorsed on reverse side payable to Greyvan Lines, Inc. When collection is received, receipt original Freight Bill in space provided and give the original copy with the fourth copy of the Bill of Lading to the shipper. Personal checks are not acceptable. If truckman has taken proper steps in consulting shipper at time of leaving loading point; there will be no difficulty involved in making collection.

25. Unloading.—Find out from shipper how he desires various items placed. Proceed with unloading swiftly but carefully. Place articles in rooms directed by shipper. Be sure to leave chair covers, mattress covers, and other special equipment on the various pieces until they have been placed in the residence. Lay the rugs, replace mirrors, and assemble furniture.

26. Unpacking.—Unpacking is to be done as specified in Freight Bill or may be done if shipper wishes to pay for same and add to Freight Bill.

27. Checking Inventory.—Follow carefully instructions as outlined in section referring to Inventory.

28. Completion of Job.—The truckman's job is not completed until he has ascertained from the shipper as to whether or not he is entirely satisfied with his shipment. If there are any damages, same must be reported as specified in this manual under "Damage Claim."

The truckman should then very courteously thank the shipper for the privilege of having served him and wish him lots of success and happiness in his new home, and supply him with the address of our local office, agent or General Office.

47 29. Service Report.—The Service Report must be completed by the truckman on every shipment. If shipment has been handled satisfactorily in every respect, he will so report. If there are any damages or other complaints, complete details must be given. This report may also be used in addition to the above for the shipper to make any written report regarding our service.

30. Completing Instructions to Truckman.—When shipment has been unloaded, truckman will insert time he unloaded and the names of his helpers. At the same time truckman is to check over all papers and see that they have been properly completed.

31. Turning in Instructions to Truckman and Supporting Papers.—Immediately after unloading in a city where we have an office, the Instructions to Truckman, all supporting papers, and collection, if any, are to be turned in to that office just as quickly as possible. In cases where truckman unloads where we do not have an office, Instructions, supporting papers, and collection, if any, must be immediately sent to the General Office in Chicago. Do not turn in any papers or collections to agents.

Truckman are held personally responsible for monies which they collect, therefore they should see that the money is either turned in to the local office immediately or mailed to the General Office. A TRUCKMAN MUST NOT TAKE CHANCES BY CARRYING COLLECTIONS ON HIS PERSON ANY FURTHER THAN BETWEEN THE SHIPPER'S RESIDENCE AND THE OFFICE, BANK, OR POST OFFICE.

32. Preparing for Next Shipment.—As soon as the shipment has been unloaded and the truckman has turned in his papers or sent them to the General Office, he is to immediately prepare for the next shipment. This means first of all, checking the mechanical condition of the equipment and seeing that the truck is washed.

After this, he will see that his personal appearance is in order and he is in communication with the local office or Dispatcher at General Office.

48 SECTION 3—SPECIAL INFORMATION

The following pages include special information on various subjects. We have gone into considerable detail to explain these matters carefully. These pages include details regarding the handling of such items as listed below:

Bill of Lading.
Claims.
Freight Bill.
Furniture—loading and unloading.
Government Shipments.
Helpers.
Inventory.
Packing.
Presentation to Shipper.
Preparation for Loading.
State Regulations.
Tariff Questions and Answers.

49 HOW TO MAKE OUT A BILL OF LADING

1. Importance of Bill of Lading.—The Bill of Lading is the most important of all papers in connection with a shipment as it is the contract between the shipper and the carrier (our company). Therefore all information on the Bill of Lading must be accurate and the instructions set out hereinafter must be followed without exception.

2. Making Out Bill of Lading.—When the Instructions to Truckman covering a move is being made out the Branch or General Office (if agents order) will make out a Bill of Lading in quadruplicate leaving open those items that must be completed by truckman.

3. Agents No.—Enter our order number in this space.

4. Issued at.—Bill of Lading must be issued at point of origin so fill in this space by entering the city and state of origin.

5. From.—Enter shippers full name in this space.

6. Address—Origin.—Enter street address at point of origin.

7. Floor.—Enter the floor from which shipment is moved.

8. City and State.—Enter the city and state from which the shipment is moved.

9. Consigned to.—Enter the name of consignee on this line. Usually the shipper will be the consignee but a shipper may have

a shipment consigned to another individual or company at destination in which case this space would show the name of the individual or company to whom the shipment is consigned.

10. Address and Floor.—Fill in destination street address and floor.

50 11. City and State.—Fill in destination city and state.

12. Delivering Carrier.—Fill in "Greyvan Lines, Inc." in this space except in those cases where shipment is taken for a destination beyond the scope of our operation and the shipment is turned over to another carrier for delivery.

13. I. C. C. No.—Show Docket #14786 in this space.

14. Description of Property.—(a) Fill in description that describes the property being transferred. For example: If a shipment of household goods (Class 1 Shipment) released at 30¢ per pound per article or less is being transported the description would read, "Household Goods per Inventory Sheets attached." Class 1, Table A rates apply.

(b). If a class 2 or 3 shipment is being transported the description must be such that it describes the shipment such as office equipment, hospital equipment, etc. All descriptions must refer to "Inventory Sheets Attached."

15. Weight, Rate, and Charge.—It is not necessary to fill in these spaces.

16. All Advances, Etc.—Fill in this space only when shipment is to be billed in which case show the word "Bill" and the name and address of the company to be billed.

17. Received $, Etc.—Fill in the amount of prepayment that has been received on the order. Branch manager should sign in space provided. If prepayment is made to driver he must sign in this space.

18. Released Value.—Fill in released value which shipper has agreed to by signing Order for Service.

19. Excess Declared Value.—Enter in this space any items which shipper has declared an excess value as taken from Order for Service.

51 20. Weight Certificate.—(a) Before loading a shipment truckman will have truck weighed with all equipment thereon, gas tank full, and without crew. This weight establishes the tare weight of the shipment.

(b) Weighmaster must then complete the tare portion of the weight certificate by entering thereon the information called for by the weight certificate.

(c) Truckman must see that all four copies of Bill of Lading with carbons inserted are given to the Weighmaster so that they will all show the certification and proper weight.

21. Government Weight Slips.—Since the government requires additional copies of weight slips a separate weight slip is being provided so that truckmen can obtain the necessary copies to be furnished the government. On each government load Branch or General Office will attach necessary additional copies of weight slips and the truckman must see that they are made out and signed by the Weighmaster in addition to getting the necessary weights certified on the Bill of Lading. If truckman is handling a government shipment and he fails to receive the additional weight slips he should make out the necessary weight slips from the copies he carries and have the slips certified by the Weighmaster at the time the shipment is weighed.

22. Signing Bill of Lading.—(a) When shipment has been loaded truckman will present the Bill of Lading for signature. Shipper (husband or wife), or an authorized agent of the shipper must sign the Bill of Lading. Truckman will then sign the Bill of Lading and deliver the original copy to the shipper as a receipt for the property.

(b) If shipper's agent signs Bill of Lading, for his own protection he should sign in space headed "Subject to Section 7" as this relieves him of all responsibility for any charges in connection with the shipment.

23. Gross Weight.—(a) As soon as possible after loading truckman should have the shipment weighed. (Preferably on same scales that tare weight was weighed.) Have gross weight certificate filled out (3 copies only) and signed by Weighmaster.

(b) Truckman will complete certificate by signing in space provided and filling out weight summary.

24. Bill of Lading Copies.—All 3 remaining copies of Bill of Lading will be carried by the truckman and turned in with his instructions if shipment is billed. If shipment is C. O. D. the 4th copy will be delivered to shipper and #2 and #3 copies turned in with instructions. General Office will make proper distribution of copies.

51a 25. Constructive Weight.—(a) While it is provided that where there is no scale within 10 miles radius of origin a constructive weight of 7 pounds per cubic foot of properly loaded van space may be used in arriving at weight of shipment.

(b) Constructive weight is to be used only when there is no possibility of weighing shipment. When constructive weight is used truckman must enter on face of Bill of Lading the following statement: "Constructive Weight Certificate—Shipment occupies —— cubic feet of properly loaded van space. Constructive weight of shipment @ 7 lbs. per cu. ft. *Is* ——— lbs. Certified by ——— Driver."

26 Minimum Weight.—When a shipment is hauled under a minimum weight basis the Bill of Lading must carry the following statement: "Class —— shipment moving at minimum weight of —— lbs. Actual weight —— lbs."

27. Expedited Service.—When a shipment is moving under expedited service the Bill of Lading must carry the following notation: "Class —— shipment moving at minimum weight of —— lbs. Actual weight —— lbs.

28. Tare Weight When Part Load on Board.—When a part load is on board the tare weight for the second part of the load will be the gross weight of the first part load. In view of this if the truckman has Bill of Lading for second part load he can have the tare weight certified at the same time the first part load is weighed to obtain gross weight. (That is, after loading first part load.)

29. Important.—No shipment can be picked up without a Bill of Lading so each truckman must carry a supply of Bills of Lading and must be prepared to make out a Bill of Lading properly if for any reason he does not receive a Bill of Lading from Branch or General Office. The fact that truckman did not receive instructions with Bill of Lading attached does not relieve him from issuing Bill of Lading to shipper when shipment is picked up. There are no exceptions to this procedure.

52 TRUCKMAN

The name truckman is almost a misnomer for a man in Greyvan Service. He must not only be a good, safe driver, and a good mover, but neat, healthy, courteous, diplomatic, capable of maintaining records, and standing up under the hardships of the road.

Greyvan is proud of its personnel and does not hesitate to promise its clientele that in Greyvan Service they will receive the very best—the kind of service the ordinary company or ordinary company or ordinary truckman cannot produce.

53 CLAIMS

1. Carelessness.—Claims are practically all caused by carelessness. It is possible that a truckman may be judged almost entirely by the claims that he has or does not have. In other words, the Company cannot expect to maintain the services of any truckman who has frequent claims.

2. Causes and Prevention.—The causes of claims are so many and various that it is impossible to outline all causes herein. The majority of claims are for damages to furniture which may well be avoided by careful handling and packing. Packing claims are second and these are caused either by careless packing or by care-

less handling. Every container, whether packed by a Greyvan packer or the shipper, must be handled with care. Third, but most serious of claims, are those for lost items. Several methods have been devised which should prevent any losses whatever. First of all, the truckman must be sure that he has obtained every item of furniture or other household goods to be moved. This means that he must look in all closets, on closet shelves, in built-in cabinets, in the attic, basement, locker, garage, and behind doors. There is no excuse for leaving any article in the residence. Second, each and every item must be listed on the Inventory and checked off at destination. Third, part-load shipments should be so separated that there is no chance of mixing. Fourth, stickers are provided to identify containers, and tags which may be used for furniture. In view of the above, it would seem almost impossible, except in cases of undue negligence, to have any losses.

3. Advice to General Office.—Should there be a claim, it is important that the General Office be advised of all details, same being shown on the Service Report. Truckmen are furnished below with information regarding adjustments of claims.

4. Procedure.—Rule 28 of Tariff No. 9 reads as follows:

"(a) Any claim for loss, damage, or overcharge shall be in writing and shall be accompanied by original paid bill for transportation and original Bill of Lading, if not previously surrendered to carrier. Carrier may require certified or sworn statement of claim.

(b) Carrier shall be immediately notified of all claims for concealed damage and shall be given reasonable opportunity to inspect alleged concealed damage in original package."

This Rule Must be Observed in the Handling of Every Claim.

5. Truckman May Settle Claim.—If truckman has knowledge of a claim when making delivery, he may settle same if cash collection has been made and shipper has receipted Freight Bill and original Bill of Lading and shipper makes claim in writing
54 on the Service Report. Driver may then arrange for repairs or make cash settlement with shipper and have shipper sign a Release Form which must be sent to General Office or local office with Service Report and all other papers on this shipment. In case of making cash settlement, show on blank line at top of Release Form the amount of cash for which settlement is made. But if repairs have been authorized, cross out the words "the sum of" and insert on next line "satisfactory repairs to" (name articles which are being repaired). Be sure that balance of Release Form has been filled in, and that shipper has signed as well as a witness.

6. Truckman May Not Settle Claim.—If shipment is billed and claim is acknowledged by truckman, the shipper may present claim in writing on Service Report and follow up by seeing that paid Freight Bill and original Bill of Lading are forwarded to the local office or General Office.

7. Reporting Claims.—Truckman must also advise on Service Report all details regarding claim so prompt adjustment may be made. The way to avoid any difficulty regarding claims is, of course, to handle a shipment in such a manner that there will be no claims.

55 FREIGHT BILL

1. General.—(a) Freight Bill will be issued in triplicate. Two copies being delivered to the truckman and the 3rd copy to be forwarded to the General Office with the settlement information.

(b) When billing has been completed, the 3rd copy will be returned to the Branch for their file.

(c) In making up the Freight Bill the Branch will complete the invoice with the exception of the transportation charges, which will have to be completed after the weight of the shipment has been obtained. This, of course, means that the gross,

tare, and net weight, the weight per hundred pounds, and the total transportation charge will have to be completed either by the truckman or the General Office as set out below.

(d) The packing, if it is done by the truckman, will also have to be completed by the truckman or General Office. Ordinarily the packing charges can be completed by the Branch before the Freight Bill is given to the truckman, inasmuch as the packing will be done in advance. Packing will be billed in accordance with the packing performed as shown on the packing order.

(e) The information to be completed on the Freight bill is as follows:

2. Date.—This is date shipment goes in transit if C. O. D. If billed to a National Account this date will be left blank and General Office will insert date when Freight Bill is sent to shipper.

3. Our Order Number.—Show order number.

4. Your Order Number.—Shippers order number, if any.

5. I. C. C. Certificate Number.—Until further notice show Docket 14786.

6. In Brackets.—Show name and address of company to be billed on a billed shipment or shipper's name and address if C. O. D.

7. Pursuant to Etc.—Leave this space blank on billed shipment. If C. O. D. show "C. O. D." in this space.

56 8. Description of Shipment.—Shipment will be described in same manner as on Bill of Lading.

9. Shipper.—Shipper will be same as shown on Bill of Lading.

10. Consignee.—Same as shown on Bill of Lading.

11. Date of Shipment.—Date in transit.

12. Origin.—Show city and state where shipment originated.

13. Destination.—Show city and state where shipment is to be delivered.

14. Packing Charge.—Enter in these spaces the itemized packing charges for the actual packing done as shown by packing order.

15. Unpacking Charges.—Enter in these spaces the itemized amount of unpacking to be done, which will be the same quantities as was packed.

16. Rates Based, Etc.—Enter released value per pound per article as shown on Bill of Lading.

17. Class, Table, Etc.—Enter class of shipment, and table of rates that apply as taken from Bill of Lading.

18. C. O. D. Freight Bills.—(a) In handling C. O. D. Freight Bills the truckman has an important part and he must thoroughly understand completing of the Freight Bill. It is, of course, understood that all Branch employees must also thoroughly understand

the set-up so that they may be able to answer any questions the truckman may ask.

(b) Usually when the Freight Bill is received by the truckman it will be completed except for the showing on the Freight Bill the gross, tare, and net weight, the computation of the transportation charges, and, where the truckman does packing, the packing charges and unpacking charges will have to be completed by the truckman in addition to the total of the Freight Bill.

57 (c) In order to obtain accuracy in completing Freight Bills the truckman will follow the procedure set out below:

(d) When a shipment has been loaded and weighed the truckman will, if at all possible, without delay call at the office, or agent, and have the Freight Bill completed. If, however, it is impossible to make a personal call at the office, or agent, due to distance from the office, or agent, time of day, etc., the truckman will telephone the office, or agent, and they will furnish the weight per hundred pounds and the transportation charges together with the total amount of the Freight Bill. Upon receipt of this information the truckman will complete the Freight Bill by showing the gross, tare, and net weight in spaces provided (taken from the Bill of Lading weight certificate). Enter the net weight and rate per hundred pounds and total transportation charges in line provided for transportation. Then enter total charges of Freight Bill in spaces provided. This completes the billing of a C. O. D. shipment.

(e) If a truckman finishes loading after office hours, he may contact an office or agent en route between origin and destination, or if there is an office or agent at destination he may contact that office or agent who will furnish the rate per hundred pounds and the total transportation charges. Truckman should also ask office or agent to check his addition of the total charges. Truckman should likewise check the transportation charges when given over the phone to be sure that there has been no error in entering the figures.

(f) If there is no office or agent that can be contacted at loading point, en route, or destination, the truckman should wire the General Office for the charges. This wire should show the order number, name and net weight of shipment, and where the reply is to be sent. For example, assuming you are wiring from Joplin, Missouri, regarding order number 2000, Jones, which carries the net weight of 6,500 pounds and you desire the reply to be sent in care of Western Union, your wire would read: "Net weight 6,500 pounds Jones order 2000 wire care Western Union Joplin Missouri."

(g) The General Office will reply and advise the rate per hundred pounds and total transportation charges.

(h) When completing a C. O. D. Freight Bill be sure that carbon is used so that the duplicate copy will show the charges that were made to the shipper. There can be no exceptions.

(i) When payment is received by truckman he will receipt both copies of the Freight Bill and give original receipted copy to shipper together with the 4th copy of the Bill of Lading. The 4th copy of the Bill of Lading is necessary since it gives the shipper the weight of the shipment.

58 19. Billed Shipments.—The handling of billed shipments is entirely different from C. O. D. When a shipment is to be billed the Freight Bill will be made out by the Branch in the same manner as C. O. D. and two copies delivered to the truckman. Truckman need only obtain the signature of the shipper on both copies of the Freight Bill as billing will be completed by the General Office. Both copies of the Freight Bill and 3 copies of the Bill of Lading must be sent to the General Office with the other papers.

20. Transportation.—When the Freight Bill is made up by the Branch these spaces will be left blank except when a shipment has been placed in temporary storage, in which case the shipment will be billed at the weight as shown on Bill of Lading. Note: Bill of Lading must be issued and shipment weighed when shipment is picked up and taken to storage. There can be no exceptions.

21. Packing and Unpacking.—Complete by entering the amount from itemized schedule.

22. Extra Pick Up and Delivery.—Enter the charges in this space based on extra pickup and deliveries to be made.

23. Hoisting or Piano Carry.—Enter amount for hoisting or piano carry.

24. Storage in Transit.—Enter amount for first 30 days only based on weight at applicable rate.

25. Excess Value on Specific Articles.—Enter charge from estimate sheet. If shipper declares additional items at time of loading charges must be increased to include total excess declared.

26. Advance Charges, etc.—Charge for All Risk Insurance and servicing refrigerators will be entered under this heading in addition to any other services which are performed for the shipper in which we merely act as agent for the shipper.

27. Total.—Branch will leave blank. See C. O. D. set up.

59 28. Amount Prepaid.—Branch will in all cases show in this space any amount that has been prepaid as shown in space on Bill of Lading. If prepayment is made to truckman he

will receipt Bill of Lading for amount prepaid and enter in this space.

29. Balance Due.—Enter in this space the balance due on a shipment that is total charges less prepayments. This space cannot, of course, be completed until transportation rate has been computed.

60 FURNITURE LOADING AND UNLOADING

1. General.—The ability to pack the maximum amount of furniture in the amount of space available comes only after considerable experience. However, proper loading really consists only of filling every inch of space with some properly padded piece, considering, of course, the weight of the article. In general, it may be said, place the heaviest items on the floor and work up progressively with lighter pieces. Load in tiers across the van and try to keep each tier level and even. Be positive that there are no unpadded corners, edges or legs which might rub or be marred. Be sure that no article is so loaded that it is in a strained position. Each tier must be so tightly loaded and padded that there is no lateral movement from the motion and sway of the van.

2. Base.—Base articles are those pieces which by their very nature or weight require them to be placed on the floor of the van, and all pieces which are capable of supporting considerable weight without injury to themselves. Before starting to load, the amount of base available must be carefully estimated and must be used judiciously throughout the load so that all parts of the load are properly supported. Never use any fragile or lightweight piece as base and in turn don't use heavy articles as topping.

3. Odd-Shaped Pieces.—Try to work all such pieces into the load as you go. Don't save them all until the last, because they will be extremely difficult to use then, and as a rule, they cannot be loaded on the tailgate.

4. Mirrors & Pictures.—Uncrated mirrors and pictures can be loaded between mattresses to good advantage. If necessary they may be put on top of the load, but be sure that they are well padded and cannot slip down into the load.

5. Bed Springs.—These must never be loaded flat on the bottom of a load. Always stand them on edge, and try to use them to finish off a load. Load them "soft" side inwards. Never use a bed spring as an extension for a tailgate load.

6. Mattresses.—Always load flat or on edge. Never fold or bend.

7. Plate Glass.—Do not handle plate glass unless it is crated.

8. Cartons Containing Lamp Shades.—Place these on top of the loads, right side up.

61 9. Barrels.—These make excellent base materials, but be sure that any article on top of them is resting on the lips of the barrel and not on the contents.

10. Rugs.—Never fold or bend any rug. Load large rugs lengthwise in the van on top of the load, and unless they can be evenly supported throughout, tie them up against the roof. Pad the ropes used with hop sacking. Pack rugs near back of load so they may be unloaded among the first few pieces.

11. Tailgate Loads.—The greatest care must be used in packing a tailgate load. If possible use barrels, wooden boxes, rough furniture, garden tools, etc. Load must be completely covered with the tarpaulins, and well laced to van.

Tailgates are provided on vans for the distinct purpose of accommodating within their weight and size capacities, those portions of shipments unable to be loaded inside the van. There is no acceptable or justifiable reason why they should not be properly used when necessary.

Improper use has sometimes resulted in accidents, cargo damage, fines, and misunderstandings. Hereafter, the following instructions relative to the use of tailgates are to be observed:

(a) Never load the tailgate beyond its size and safe weight capacity.

(b) Never drive the van with tailgate Lowered Beyond a Horizontal Position. It is much preferable to have the rear of the tailgate higher than the hinge. This permits drivers of vehicles following closely to observe the reflectors, tail, stop, and directional lights—a real safety precaution.

(c) Always pack neatly and "square off" the tailgate load as much as possible. Cover and protect all items loaded on the tailgate with ample tarpaulin. Be Sure the load and tarpaulin are properly and adequately secured to avoid shifting and flapping of the tarpaulin or whipping of any loose ends of rope.

(d) Never permit loose ends to hang or project sideways or below the bottom face of the tailgate—rear vision mirrors may be obscured as well as reflectors and rear lights. Practice Safety and consideration for other users of the highways.

(e) Whenever the van is being operated and the tailgate is in other than a vertical position, Be Sure its use is properly indicated as follows:

1. During the Time When Lights Are Required, display three lighted red lanterns (or acceptable red electric lights) at the rear edge of the tailgate, one at each extreme rear corner and one in the center.

2. At Other Time display two red flags, one at each extreme rear corner.

62 12. Unloading.—All unloading is done with the same care and attention that was given to loading. Be sure that you have all of your pads, furniture covers, tools, etc., before closing van.

13. Helpers Required.—Use at least two helpers to help handle any but very small shipments. Pay particular attention to instructions regarding extremely large or heavy articles and be sure that enough help is used to handle them.

14. Left-Overs.—If there is a left-over, be sure to leave only non-essentials. Complete beds, refrigerators, and stoves must be taken. Try to find out from the shipper the articles that he would prefer to have left.

63 1. Interstate Commerce Commission Ruling.—The Weight Basis has been prescribed by the Interstate Commerce Commission for all carriers in order known as Ex Parte MC–19.

All shipments are charged for on a weight basis plus charges for additional service as outlined in Household Goods Carriers Bureau Tariff #9, or subsequent issues thereof or other Greyvan Tariffs.

All requirements of the Interstate Commerce Commission have the force of law and it is of the utmost importance that you govern yourself accordingly.

2. Tariff #9.—Drivers should all be familiar with the tariff, a copy of which is enclosed, for the purpose of verifying charges. This copy must be retained with the van and be available at all times. If it is necessary that it be replaced, same will be charged to the driver.

3. Other Papers.—The driver will still carry the following papers for every shipment:

Instructions to Truckmen.
Service Report.
Bill of Lading.
Freight Bill.
Inventory.
Packing Order (when necessary).
Postal Card.

4. Securing Weights.—Regulations specify that when weighing the van it shall be "Without the crew thereon, and when so weighed the gasoline tank on each such vehicle shall be full, and the vehicle shall contain all blank pads, chains, dollies, hand trucks, or other equipment needed in transportation of such shipment." Regulations all specify "Each carrier shall retain in the vehicle, subject to inspection and Weight Masters certified weight or ticket as to each vehicle showing the tare weight, the date weighed and a list of special equipment."

Certified weight ticket shall be posted in the cab of the van at all times; however, this ticket will not be used at any time to determine the weight of the van in connection with the handling of the shipment. Tractor and semitrailer are considered separate units.

On every shipment truckmen must weigh the van before loading to determine the tare weight.

1. Tare Weight is the weight of the vehicle with no shipment on board, and without the crew, but with a full gasoline tank and fully equipped with pads, etc., or

2. Tare weight for part-loads is the weight of the equipment as before, plus weight of shipment or shipments on board.

64 The Gross Weight is the total weight of the vehicle and shipment or shipments thereon.

Net Weight of the shipment is determined by deducting the tare weight (weight before loading) from the gross weight (weight after loading). Net weight is the basis upon which the transportation charges are determined. Example:

Gross Weight	16,480 lbs.
Tare Weight	12,220 lbs.
Net Weight	4,260 lbs.

transportation rate would therefore be determined on the basis of 4,260 lbs. in accordance with the correct mileage.

Whenever your vehicle is weighed you must secure a receipt from the Weigh Master for such service. Usually the most is 10¢, but should not in any case exceed 25¢ for each weight secured. The cost of weighing must be shown on Truckmen's Weekly Report and the receipt for same attached so that proper credit of ½ of this amount may be given to the truckman.

5. Scale Directory.—The Scale Directory is furnished with the Tariff giving the location of scales in various parts of the country. Locations are shown alphabetically by state and city. This list is by no means complete. Every manager, agent, and driver should forward to this office the name and address of other companies operating other scales sufficient for our weighing purpose. As soon as sufficient scales have been located, a new directory will be published. Where you find scales listed in the Scales Directory that for one reason or another cannot be used for our purpose, you should also advise us giving the reason.

6. Freight Bill.—When a shipment is moved from a residence the transportation rate cannot be determined until the van has been weighed and the net weight of the shipment ascertained. This will naturally involve some complications in completing of the Freight Bill, therefore, follow instructions below accordingly:

1. When a shipment moves from a city where we maintain an office or agent the net weight should be determined at that point if at all possible. The office or agent should then be furnished with the net weight of the shipment and they will furnish the correct rate per CWT and total transportation charges.

2. If there is no office or agent at loading point, but there is an office or agent at unloading point, rate per CWT and total transportation charges will be furnished by the office or agent at unloading point.

3. If there is no office or agent at loading point, and there will be no office or agent at unloading point, but the truckman is reporting at an office or agent enroute, the rate per CWT and total transportation charges will be secured from that office or agent.

65 4. If there is no office or agent at loading point, and there will be no office or agent to report to en route or at unloading point, it will be necessary that the driver wire the General Office furnishing the following information:

a. Net weight of shipment.
b. Name of shipper.
c. Order number.
d. Where answer is desired.

Example: "Net weight 4,260 lbs. Clark order A52314 advise care of Western Union Seymour, Indiana."

In all cases where receiving answer by wire giving the transportation charge, the driver should also check his Tariff to determine that the charge is correct.

Obviously the above procedure of having charges furnished by branches or agent, or wiring the General Office for the charges applies only to C. O. D. shipments as charges on billed orders will be determined after papers have been forwarded to the General Office.

Where the shipment has been signed by an office or agent and the local pick-up to storage is included in our order for service, the shipment will be weighed and Bill of Lading issued and transportation charges determined prior to the time you load. Under such circumstances the shipment will not of course be re-weighed. When you receive your papers you will also receive the original Bill of Lading and Freight Bill with the charges already determined. If local pick-up is not included in our order for service then the shipment must be weighed in the usual manner. This case applies where we are moving the shipment from a warehouse, which shipment was not originally placed in that warehouse by us.

The driver is furnished with two copies of the Freight Bill.

1. If shipment is C. O. D. the driver will sign the receipt (both copies) in the lower right hand corner when payment has been

made and will give the original to the shipper. The duplicate copy will be turned in with the instructions to the truckmen and all supporting papers.

2. If shipment is billed, the driver will not sign the freight bill but will have the shipper sign both copies in the space provided in the lower left-hand corner. The truckman will retain both the original and duplicate copies of Freight Bill on billed jobs and turn same in with Instructions to Truckmen and all supporting papers.

On C. O. D. orders the shipper may desire to know the amount he is to pay at destination so that he may have the funds available for this purpose. It is important that proper arrangements be made to notify the shipper as early as possible as to the exact charges.

66 1. When the transportation charge is determined by the office or agent and the shipper desires to know the charges, that office or agent should advise the shipper by telephone or wire, if necessary, of such charges.

2. If charges are determined by wiring the General Office, then the truckman should notify the shipper upon receipt of the charges in whatever manner the shipper has requested such information.

7. Postal Cards.—With each set of instructions you will receive a postal card. This card is to be filled in as soon as you have secured the net weight of the shipment. Complete all details and mail the card to the General Office immediately.

A small supply of these cards must be maintained by the truckman to be used in emergencies where the card has not been furnished with instructions.

Unless the card is mailed promptly to the General Office giving the information requested, you will not receive credit on your monthly statement on the date loaded. It will also hold up commissions to salesmen and agents.

8. Government Shipments.—The handling of shipments for the Government requires special paper work, weight slips, etc. not required in the handling of other shipments.

If the shipment is not handled in the manner requested by the Government, it is very difficult to collect for the shipment.

In case where separate weight slips are necessary, these will be completed by the Weigh Master in addition to the weights inserted on the Bill of Lading. In such cases the Branch will insert on the instructions in the space provided for the purpose, information as to just what requirements are to be made, and at the same time will attach the number of weight slips necessary.

In view of the above, Branches Are Instructed to Set Out Clearly and in Detail on the Truckman's Instructions All Special Instructions Necessary on Each Government Order. If the instructions

are not clear, the truckman must see that they are clarified before he leaves the office. Once the Instructions are accepted by a truckman, he must see that each and every required detail is followed. If weight slips are required in four copies, get four copies; if inventories are required in four copies; get four copies, etc. The only way a truckman can be sure he is getting what the Government requires is to see That He Follows the Instructions Given to Him by the Branch.

If for any reason a truckman cannot follow the instructions given to him, he will not load until he has Contacted the Branch by Whom the Order Was Assigned. In other words, Follow Instructions as Given or Get Manager's Permission to Change Instructions.

67 9. Bill of Lading.—The Bill of Lading is such an important document that we not only give you herewith the important features, but also attach separate instructions bearing the heading "How to Make Out the Bill of Lading." Every driver must understand all phases of the Bill of Lading and see that is is carefully completed on each shipment. If any doubt consult the closest office or agent.

Every truckman must carry a small supply of Bills of Lading on hand at all times. These may be secured from any office. Where it is not possible to forward Bill of Lading to you or for other reasons it does not reach you, it will be necessary to complete all details of same.

Keep This in Mind

A. All copies of Bill of Lading must be signed by the shipper and the driver.

B. All information must be completed.

C. All copies must show tare weight.

D. Gross weight and net weight should only be shown on the last three (3) copies.

E. Original copy must be given to the shipper.

F. (1) The remaining three (3) copies will be returned to The General Office on Billed Shipments but,

(2) Fourth (4) copy will be delivered to shipper with original receipted copy of Freight Bill on C. O. D. shipments.

10. Important.—No shipment can be picked up without a Bill of Lading so each truckman must carry a supply of Bills of Lading and must be prepared to make out a Bill of Lading properly. If for any reason he does not receive a Bill of Lading from Branch or General Office. The fact that truckman did not receive instructions with Bill of Lading attached does not relieve truckman from issuing Bill of Lading to shipper when shipment is picked up. There are no exceptions to this procedure.

68 HELPERS

Helpers.—The matter of having proper and sufficient help is one of great importance. Inexperienced and careless help may cause great difficulty, claims, shipper dissatisfaction and unnecessary expense.

Helpers may only be acquired in the following manner:

1. It must be understood that where possible only such men are to be used as have proper union affiliations.

2. When reporting for loading or unloading in a city or vicinity of a city where we maintain an office, Approved Parking Lot Helpers only may be used if available. A list of these helpers will be mailed from time to time. Other helpers are not to be used if approved parking lot helpers are available.

3. When loading or unloading in a city or vicinity of a city where we maintain an office and no approved parking lot helpers are available, Truckmen must contact the local office for help which will be secured from a local warehouse or local union.

4. When unloading in a city where we maintain an agent, help must be secured from the agent if possible. Payment for help secured from agent should be made directly to the agent rather than to his men.

5. Where help cannot be secured from an agent or there is no agent or office at loading or unloading point, secure help only from a local mover or local union.

6. It is the first duty of Company drivers to properly prepare their truck for the next shipment after unloading. Otherwise, when they are available, it is of importance that they assist other Company drivers in loading or unloading.

7. All offices will offer every assistance in obtaining proper help.

69 INVENTORY

The inventory form in duplicate will be given to the truckman with instructions but, truckman must at all times carry a small additional supply for emergency use.

1. Duplicate.—The Inventory will be completed in duplicate for every shipment, regardless of the size or nature. The duplicate copy, pink in color, must be given to the shipper at the time of loading, if at all possible. If this cannot be done, due to the absence of the shipper at the leading point, then the driver should give this copy to the agent of the shipper who happens to be present at loading, or if no one representing the shipper is there, then it must be either mailed to the shipper at the unloading address or given to the shipper by the driver at destination. If the

shipper, or shipper's agent, is neither at the loading point nor unloading point, the shipper's copy of the Inventory will be turned in with Instructions to Truckman at destination to be mailed to the shipper by the office at destination.

2. Listing.—We list herewith the order in which the driver should make his Inventory.

1. Living Room.
2. Sun Parlor.
3. Library or Den.
4. Dining Room.
5. Kitchen.
6. Halls.
7. Bed Rooms.
8. Attic.
9. Porch.
10. Basement.
11. Garage.
12. Miscellaneous.
13. Containers.

3. Sample.—Refer to the sample Inventory which is attached, which will give one an idea of just how the Inventory should be drawn up.

4. Observe.—Be sure to look under rugs for rug pads, behind doors, and into all cupboards and closets, so that no items will be missed.

5. More Than One Load.—In cases in which the size of the shipment requires two or more van loads to handle, it will, of course, not be possible to list the articles in accordance with the above suggestions. Therefore, in all such cases, the truckman will list all articles which he loads and the same will be done by each truckman who loads any part of the same order.

6. Containers.—Containers should all be listed last on the Inventory and in one group. Every truckman should refer to instructions covering the use of labels, etc., on various containers, since this fits in with the instructions outlined above.

7. Carefulness.—BE SURE TO WRITE PLAINLY AND DESCRIBE ANY DAMAGES FULLY. TRUCKMAN MUST BE VERY CAREFUL IN TURNING THE SHEET OVER THAT HE WRITES ON THE ORIGINAL WHITE AND THE SHIPPERS'S PINK COPY IS AN EXACT DUPLICATE OF THE ORIGINAL.

8. Description.—Every piece of furniture, regardless of size or nature, which is to be loaded must be listed on the Inventory, and given a separate number. Note the sample Inventory attached for guidance. In the space provided for condition before loading describe each article carefully. If the item is in good condition, merely use a check mark, but if the item is damaged in any manner, mark it as follows: "S on top" or "T on right arm" or
70 "M on right side" or, if the piece is marred and scratched all over you may use the symbol "GM". The "GM" symbol

is not to be used unless the piece is in generally bad condition because of scratches or mars. If one line is insufficient to describe the condition of any article, use an extra line.

9. Signature on Loading.—When the Inventory is completed, and before shipper is given his copy, be sure to fill in spaces provided on reverse side of form in duplicate just below the number 150 and have shipper or shipper's agent sign. If unable to secure signature of shipper or shipper's agent, make such notation on the line after the word "Remarks".

10. Moving from Storage.—When a shipment is being moved from storage, the contracting office will make a copy of the warehouse receipt on the Inventory form. In such cases, two sets of the Inventory form will be used. The truckman will receive the original white and pink duplicate, the white triplicate will be sent to the General Office with Settlement Information and the pink quadruplicate will be retained in the local office file. In making this copy of the warehouse receipt, every article should be listed by number exactly as on the warehouse receipt. The condition of the goods as shown on the warehouse receipt should be shown immediately after the name of the article, thus leaving room for the truckman to make any additional notation at the time of loading. The truckman should use extreme care in checking goods from the warehouse on to his own van, not only being sure to check each item, but to note its condition very thoroughly, particularly if the condition is other than as already noted. When the loading is completed, have the warehouseman sign the Inventory in duplicate in the space provided for the shipper. If unable to secure the signature of the warehouse, make such notation after "Remarks". Do not sign any receipt presented by the warehouse unless a notation is made on such receipt regarding the condition of every article loaded. This is very important, not only for the truckman's protection, but also for the protection of the Company. We cannot urge truckman too strongly to follow out these instructions to the letter, particularly with reference to any shipment loaded from or into a warehouse, since our experience has proven that the most serious of our claims and those which are most difficult to adjust properly are ones which involve a warehouse at some point in the transaction.

11. Leftovers.—In every case where there is a left-over the truckman must make out an Inventory in duplicate of each article which goes to make up this left-over and this Inventory in duplicate must then be turned over to the nearest office immediately.

12. Tags.—The use of tags is not required, but this system is followed by many truckmen and is recommended. The use of tags

is applied to small articles, such as carpet sweepers and other small articles of this nature, which may be easily misplaced. It is also advisable to use tags on bedsprings, or other articles at any time when the entire shipment may not be packed together. Tags of different colors should be used for different shipments on the same load. These tags will be furnished by the General Office, free of charge, on request.

13. Unloading—Checking Inventory.—Upon loading, each item must be checked off carefully and notation made under the heading "UNL." If the item is in the same condition as when loaded, insert a check mark, but if the article is in other than the condition when loaded, mark with an "X". If the item is marked with an "X" o nunloading, then the number of the article is
71 to be placed in the space provided for exceptions in the lower right-hand corner of the reverse side of the Inventory and the condition of the article noted. Unloading notations must be made in either blue or red pencil.

After unloading is completed, driver should have the shipper sign the original Inventory, or if he is not present, then his agent should sign, or if no one representing the shipper in on hand at the unloading point, then make that notation after the word "Remarks" on the back of the Inventory in connection with the unloading receipt. It should also be noted that both the loading and unloading forms which are printed at the bottom of the Inventory should be filled out completely in every detail, including date, name of truckman, etc. (See Sample.) If no exceptions, write the word None.

When goods are unloaded into a warehouse, the truckman should arrange before unloading that the warehouse will give him a copy of the check-in list and such copy will be attached to the truckman's original Inventory and Instructions to Truckmen when turned in at destination. Truckman should have warehouseman sign his own Inventory in space provided for shipper and, in case warehouseman will not sign, such notation should be made by truckman in space provided after the word "Remarks."

72 PACKING

While packing and unpacking service is, in general, performed by Greyvan packers or agents, it is necessary that truckmen do packing many times. Truckmen are therefore furnished information below which is a duplicate of the requirements of our regular packers.

1. Checking.—It is further of utmost importance that drivers check all packing at the time of loading to ascertain if packing services have been properly performed and if all items which

should be in containers have been packed. Drivers should not handle plate glass tops, marble tops, boat models, oil paintings and other similar items unless crated and lamp shades, clocks, books, table lamps, and other similar items unless boxed. Packing of many items is a necessary and important service to Greyvan shippers. Like our other services, we are satisfied only when we have done the best possible job.

2. Care.—Many articles which we must pack are priceless. Extra care must be taken to Protect not only the shipper's goods but also our interests. Greyvan packing service must be standard whether rendered in the largest cities where experienced packing crews are always on hand, or in smaller towns where the agents or truckmen may be required to perform this service. Rules must be established: salesmen must see that shippers pay for proper packing services, packers must be competent and truckmen must not take chances on handling goods which have not properly been prepared for shipment.

3. Articles Which Must Be Packed:

The following items should always be packed in barrels or wooden boxes: Glassware, China, Small Lamps, Lamp Shades, Kitchen utensils, Small electric appliances, Light bulbs, Small ornaments, Clocks, Other fragile items and all articles too small to handle individually.

NOTE: If barrel is packed full of china it is advisable to either completely head the barrel or to nail a cross piece on the top of the barrel for the protection of the items inside.

The following items should be packed in strong cartons or boxes: Books, Bedding, Linens, Pillows, Curtains, Cushions.

4. Articles Which Must Be Crated.

The following items should be properly crated: Glass tops, Marble tops, Boat Models, Mirrors with fancy frames, Oil Paintings, Pictures with valuable frames, Frameless mirrors, Grandfather of Grandmother clocks, Glass curio cabinets.

Any experienced packer knows how to pack the various items listed above, and those of a similar nature which may have been omitted. Greyvan will furnish information on the proper method of packing any articles on special request.

5. Refrigerators.—All gas or electric refrigerators must be properly serviced before being moved. The shipper is to pay the cost of such service, and the charge should be set up in the Order for Service for servicing at both loading point and destination. If the shipper does not pay for this service, it should be written into the order, "Shipper will service own refrigerator" Truckmen Will Not Load Refrigerators Which Have Not Been Properly Serviced.

6. Use of labels.—Every packer, truckmen, and agent packer is furnished (free of charge) with Greyvan labels to be placed on every container which is packed. Large labels like the one shown immediately below will be placed on the containers by the party doing the packing. Shipper's Name, Order Number, and Contents of the Container must be shown.

Packed by

GREYVAN LINES

Order No. _____ Shipper _____

Contents _____

74 The next label immediately below will be placed by the truckman on all containers which do not have thereon the large label. The Shipper's Name and Order Number must be inserted.

Packed by Shipper—Contents Unknown

GREYVAN LINES

Shipper _____

Order No. _____

75 The following stickers are used to designate contents of various containers and to assist in proper handling of same.

LAMP SHADES

Please Use Care

FRAGILE!

GLASS

Handle With Care

76 PRESENTATION TO SHIPPER

1. Personal Appearance.—Truckmen must always be clean and neat, freshly shaven, clean clothes, and shined shoes, whenever appearing to load or unload. He must be pleasant, tactful, and courteous. Shippers often become upset by small things, and Truckman must be patient and pacific.

2. Arguments With Shippers.—Everyone has heard the saying that the "customer is always right." While this may be somewhat far-fetched, it is never so far-fetched as to involve Truckman in an argument or quarrel with the shipper. It can do no good and may do a great deal of harm. Truckman must keep his wits and his temper. There is no better test of a gentleman. Rather than get into an argument, or in order to avoid one, refer the shipper to Company Officials.

3. Language Used.—Bright and smart remarks or making unnecessary noise in the presence of shippers is not a part of the Truckman's job, and is never called for. Drivers or helpers must not use profane language while around the shipper.

4. Helpers.—Truckman must not take any helper on a job unless he is clean and neat. He is not to allow any helper to discuss his business with the shipper. The sole duty of a helper is to help get the furniture either from the van to the house, or from the house to the van. All other matters connected with the job are solely between the shipper and the Truckman. Helpers must not be allowed to enter into them.

5. Conduct in Shipper's Home.—Truckman must not smoke in the shipper's home, or throw cigarette butts on the porches or floors. He must not lounge on the furniture, and he must be particularly careful in hot weather that he does not sit on upholstered furniture with his sweaty clothes.

6. Use of Shipper's Name.—Truckman should find out the shipper's name, either from the Instructions to Truckman or by asking him, and call him by that name, using the title "Mr.," "Mrs.," or "Miss," as the case may be. If he does not know how to pronounce the name from reading it, he should respectfully ask the shipper the proper pronounciation. Such terms as "Dad," "Pop," "Pardner," "Lady," "Sister," or "Babe," speaking of or to the shipper, will not be tolerated.

77 PREPARATION FOR LOADING.

1. Furniture Covers.—Always cover mattresses, box springs, straight-back chairs, overstuffed chairs and davenports with their proper cover before removing from house.

2. Dining Room Table.—Cover top of table with full pad, and fasten by running a cord or light rope around the edge. Turn table on its back and remove legs. Place screws in small bag and tie to table.

3. Refrigerator Cover.—Be positive that refrigerator has been serviced and trays and racks packed. Place the cover on the refrigerator before removing from house.

4. Gas Range.—Must be disconnected from gas pipe and be sure that gas has been shut off at the meter before disconnecting. Examine legs very carefully, because most of them are made of cast iron and are easily broken. They may be removed and stove handled with a dollie.

5. Upright Pianos.—Cover upright pianos with pads and piano cover. Place on padded skid and strap down as tight as possible.

6. Grand Pianos.—Remove lyre and pedal assembly and place screws in bags. Remove screws, if any, from all three legs, and place in bag with pedal-assembly screws and tie to lyre. Loosen wooden retaining blocks from behind each leg. Pad thoroughly and cover with piano cover. Place piano on padded skid with the long side down, and strap skid and piano together. Be sure that the piano is exactly parallel with the skid and that the projecting edge of the lid is in the clear at all points. The lid may be removed if necessary, but it is not advisable unless the piano is extremely shallow.

7. Kitchen Tables.—Most kitchen tables have legs which may be easily removed by the removal of four lag screws or wing nuts from the inside corners. Place all metal parts in a bag and tie to one of the legs.

8. Dresses.—Remove all mirrors and mirror hangers. Place screws and bolts in bag and place bag in one of the upper drawers. Also remove any decorative scroll work from chiffoniers and dressers.

9. Governor Winthrop Desks.—Some of these desks come apart in three pieces, but if they don't, at least, remove the decorative knob and scroll from the top, if possible. These knobs are very easily broken.

10. Rugs and Rug Pads.—Roll all rugs and pads as tightly as possible. Never use a rug pole, since, if it should happen to break or splinter, the rug might be ruined. Never fold or bend any rug.

11. Carrying of Furniture.—Handle all furniture as though it were made of glass. Be very particular not to scrape walls, door jambs, or floors while moving the pieces in or out. Pick them up! Don't scoot or slide them. Do not let "hikers" carry heavy pieces single handed. They might drop one and a damage claim result.

In case of rain, be sure that each piece is covered with a small piece of tarp while being carried between the house and the van.

12. Canvas Floor Strips.—Be sure that all stairs, halls, and carrying lanes are protected by canvas strips.

13. Port-O-Robe Box.—Use only for clothes, and be sure that it is loaded right side up.

Practically every state through which the Truck'an operates will have different regulations. In order to clearly specify the condition under which he must operate in each and every state, he is provided under separate cover with a State Regulations booklet. This booklet is supplemented from time to time with new instructions and must, of course, be kept up to date. It must be preserved and should it be lost, must be replaced immediately through the State Regulations Department in the General Office.

When in the General Office it is advisable to check with the State Regulation Department to determine if the booklet is up to date.

(NOTE: Tariff supplements are issued from time to time by our tariff agent, the Household Goods Carriers Bureau. When you receive supplements be sure you understand them and make notations in your tariff covering changes. Always check rates with offices or agents to avoid mistakes.)

1. If Tariff No. 9 the only one to be used in transporting household goods?

Yes; for participants in tariff as listed.

2. Are separate rates set up for shipments from and between points in the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia?

Yes; pages 88 to 174, inclusive.

3. Are separate rates set up for any other points?

(a) A shipment originating in points between Connecticut and Washington moving to the State of Florida require separate rates. (See Supplement No. 10 to Tariff No. 9 for exact territory and rates.)

(b) Special rates also apply from the vicinity of Detroit and from Milwaukee and Baltimore to Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin and the District of Columbia.

4. Must a Bill of Lading be issued for each shipment?

Yes; as tariff rates are based upon the use and acceptance of terms and conditions of uniform household goods Bill of Lading.

5. In case a shipment consists of more than one van load, must separate Bill of Lading be issued on each van load?

Yes.

6. What is "Tare Weight"?

1. Tare Weight is the weight of the vehicle with no shipment on board, and without crews, but with full gas tank and fully equipped with pads, etc., or

2. Tare weight for a part load is the weight of the equipment as above, plus weight of shipment or shipments on board, i. e., gross weight.

7. When is a van weighed to establish a "tare weight"?

Prior to the loading of each shipment.

80 8. Must van be weighed on each specific shipment?

Yes; except a shipment of 1,000 pounds or less, which may be weighed on a certified scale before loading.

9. Can a shipment of 1,000 pounds or less be weighed on a certified scale before loading?

Yes; but weight must be certified on Bill of Lading.

10. Are the weighing charges to be charged to the shipper?

No.

11. Will a list of locations of certified weighmasters or certified scales be furnished?

Yes; but list is incomplete. Any scale certified by municipal, county or state, or Federal authority, which has sufficient capacity may be used. All offices and agents should locate scales in their respective cities or towns, so information is available for truckmen—preferably scales that will take 35 feet.

12. What is "Gross Weight"?

Total weight of loaded vehicle.

13. When and where should the van be weighed after it is loaded?

Prior to unloading, preferably on scale where tare weight was established, but may be weighed on any certified scale.

14. Can the tare weight be established on one set of scales and the gross weight established on another?

Yes; but this is not desired.

15. How would this be shown on a Bill of Lading?

Entered and Certified on Bill of Lading.

16. How will one determine the net weight?

By deducting the tare weight from gross weight (weight after loading).

17. If a shipment is weighed at two different points, must the weighmaster's signature be obtained at each weight?

Yes.

18. What weight information is to be shown on the Bill of Lading?

Net, Tare, and Gross Weight.

81 19. Who will figure the charges on C. O. D. shipments?

Office or agent, if possible—otherwise wired figures from the General Office.

20. Are we permitted to transport household pets?

No. Rule 18, page 9A states: "Household pets will not be accepted for transportation."

21. Are we permitted to transport plants, flowers, or shrubbery with a shipment of household goods (Class 1 shipment)?

No. Rule 18, page 9A also states: "Plants, flowers, or shrubbery will not be accepted for transportation as part of a Class 1 shipment."

22. Are plants, flowers, or shrubbery to be accepted as part of Class a or 3?

Yes; subject to the requirements of ordinances or limitations of law regulating the transportation of the property, or the use of vehicles and facilities.

23. Must a carrier accept any or all shipments?

Shipments will be accepted subject to the requirements of ordinances or limitation of law regulating the transportation of the property, or the use of vehicles and facilities.

MILEAGE CHART.
10-29-39.

	Akron, Ohio.	Atlanta, Ga.	Baltimore, Md.	Birmingham, Ala.	Boston, Mass.	Buffalo, N. Y.	Chicago, Ill.	Cincinnati, O.	Cleveland, O.	Columbus, O.	Dayton, O.	Detroit, Mich.	Indianapolis, Ind.	Kansas City, Mo.	Louisville, Ky.	Milwaukee, Wis.	New York, N. Y.	Newark, N. J.	New Orleans, La.	Philadelphia, Pa.	Pittsburgh, Pa.	St. Louis, Mo.	St. Paul, Minn.	San Antonio, Tex.	Syracuse, N. Y.	Washington, D. C.
Akron, Ohio.		693	339	722	664	213	358	231	34	123	188	185	293	790	339	450	484	472	1090	401	110	535	777	1506	356	342
Atlanta, Ga.	693		711	176	1121	900	725	476	710	570	529	731	562	844	665	817	906	894	566	814	755	589	1127	1840	997	672
Baltimore, Md.	339	711		818	412	379	692	500	341	403	472	524	577	1078	616	764	195	189	1152	103	229	819	1111	1787	588	38
Birmingham, Ala.	722	176	818		1287	929	677	505	739	589	557	760	580	764	605	749	1010	998	574	918	784	568	1078	874	1073	778
Boston, Mass.	664	1121	412	1227		457	987	877	660	772	838	807	949	1440	985	1079	217	282	1601	309	571	1185	1806	2136	330	452
Buffalo, N. Y.	213	900	379	929	457		535	434	190	330	388	357	833	990	562	613	382	378	1493	378	219	795	958	1784	178	430
Chicago, Ill.	358	725	692	677	987	535		294	347	313	280	267	186	506	301	93	837	825	971	758	465	297	419	1277	681	665
Cincinnati, Ohio.	231	476	508	505	877	434	294		284	108	78	255	110	807	108	324	660	646	859	577	293	539	773	1254	888	585
Cleveland, Ohio.	34	710	361	739	660	190	347	244		140	150	168	893	880	552	439	506	484	1109	429	198	566	766	1584	394	644
Columbus, Ohio.	123	570	403	589	772	330	313	108	140		69	185	174	873	216	405	355	543	967	472	188	416	738	1569	478	600
Dayton, Ohio.	188	529	472	559	838	388	280	52	150	69		207	107	804	169	378	886	862	911	543	257	340	699	1696	558	660
Detroit, Mich.	185	731	524	760	807	357	267	255	167	185	207		289	731	389	360	668	657	1114	586	295	588	687	1889	981	587
Indianapolis, Ind.	293	562	577	580	949	493	186	110	303	174	107	289		697	117	377	789	717	960	646	362	248	663	1213	697	576
Kansas City, Mo.	790	844	1078	764	1440	990	506	607	900	671	804	731	697		581	569	1496	1214	967	1163	859	255	482	806	1138	1073
Louisville, Ky.	339	445	616	403	985	562	301	108	352	216	160	340	117	581		378	788	756	753	685	401	266	788	1146	686	613
Milwaukee, Wis.	450	817	764	769	1079	613	93	386	479	405	372	360	278	569	393		987	937	1057	846	555	373	350	1348	773	757
New York, N. Y.	484	906		1010	217	382	837	660	506	555	624	649	729	1226	788	989		12	1384	92	384	971	1256	1919	258	234
Newark, N. J.	472	894	193	998	229	370	8.5	648	494	545	612	657	717	1214	756	917	12		1378	80	362	959	1244	1907	252	222
New Orleans, La.	1090	566	1152	574	1601	1493	971	859	1103	967	911	1114	868	867	753	1057	1384	1378		1292	1152	738	1297	606	1437	1159
Philadelphia, Pa.	401	814	103	918	309	378	754	577	429	472	543	586	646	1143	685	946	92	80	1292		291	888	1173	1827	271	142
Pittsburgh, Pa.	110	755	229	784	591	219	463	293	132	188	257	295	540	859	401	555	374	362	1152	291		604	882	1550	349	232
St. Louis, Mo.	535	589	819	568	1185	795	297	352	545	416	349	588	362	255	266	379	971	959	738	888	604		571	971	879	816
St. Paul, Minn.	777	1127	1111	1078	1806	958	419	773	766	938	699	687	808	880	780	350	1256	1244	1297	1173	882	571		1388	1580	1314
San Antonio, Tex.	1506	1840	1787	876	2136	1784	1277	1254	1516	1562	1296	1493	1213	806	1266	1348	1919	1907	606	1927	1550	971	1388		1854	1698
Syracuse, N. Y.	356	997	322	1071	310	151	681	578	334	474	538	581	457	1134	686	773	258	252	1457	273	349	879	1100	1850		361
Washington, D. C.	342	672	39	771	451	410	695	505	344	600	660	587	576	1073	613	757	234	222	1159	142	232	816	1314	1698	361	

83 SECTION 4.—GENERAL MAINTENANCE

Do not think that because a truck is big in size that it can stand abuse in comparison. No truck will stand the abuse that can be given an ordinary automobile. If any truck driver tries to get automobile performance out of a truck, he will soon find that the truck will not stand the strain and unit and road failures will become common occurrences. The driver who abuses his truck is a losing proposition to the Company, as the cost of such abuse will more than offset the revenue from the shipments hauled by him.

No other business in the world puts as much of its gross revenue back into operating expense as does the trucking industry. The margin of profit is usually so small that it becomes vitally important that operating expenses be kept at the absolute minimum by every means at our command.

Economical operation requires the closest attention of each driver to the rules of procedure outlined in this Manual and to his intelligent cooperation with the Equipment Division.

84 GENERAL MAINTENANCE

1. Routine Habits.—Every driver must form definite, routine habits in caring for his truck.

A. At every stop, walk around the truck and inspect to determine if everything is in order. Kick all tires, check spare tire fasteners, check tailgate fastenings, check lights, etc.

B. Check oil level at least once a day.

C. Check wheel and axle nuts and studs at frequent intervals. The time between checks will vary with the individual truck, but be on the safe side. After tires have been changed, tighten lugs after 100 miles, 300 miles, and 600 miles.

D. Watch tire pressure closely.

E. Watch oil pressure, temperature, and ammeter gauge while driving, because these are indications of the motor performance.

F. Grease universal joints every 500 miles.

G. Change oil at intervals of not exceeding 2,500 miles. Replace filter cartridges when oil is changed.

H. Have entire truck greased at intervals of 1,000 to 1,500 miles.

I. Check battery at every other lubrication.

J. Check oil level in transmission and differential at every lubrication.

2. Anticipating Repairs.—Most road failures can be prevented if each driver will anticipate needed repairs and either handle them in between loads or notify the General Office that such repairs

are necessary so that arrangements may be made to have the wor done. It is usually advantageous to handle most repairs in Chicago, and to do this it is necessary that the Equipment Divisio be advised of all needed repairs in sufficient time to handle properly.

3. Monthly Equipment Report.—In order to keep us fully informed on the condition of equipment, each truckman will fill out and forward to the Equipment Division a copy of the Monthly Equipment Report. This should be handled at approximately the same time each month and should be in as much detail, and as accurate, as possible. Each truckman is expected to correct (as promptly as possible) each item that is not in proper condition.

This report is bound with sufficient copies in each booklet to last approximately twelve months and is available at any company office.

4. Urgent Repairs.—When repairs are needed at once, the following procedure must be observed:

A. Take truck to factory branch or authorized dealer of make of truck that is being driven, if possible; i. e., Ford to Ford dealer, International to International Harvester branch or dealer, etc.

B. If the time required to get the truck to a shop and an estimate of repairs made is such that a delay in schedule will result, wire the General Office immediately. A sample wire covering this situation is shown below: "Have Differential Trouble Two Miles East Huntington, Wiring Details Later, Reach Me Western Union, Huntington" (or name of garage).

C. Secure estimate of cost and time necessary to complete repairs.

D. Determine if garage is agreeable to billing us direct rather than handling on C. O. D. basis.

E. Send wire to General Office giving complete details. A follow-up wire to that shown above may read as follows: "Differential Cost $40.00 C. O. D., Can Arrive Pittsburgh Tomorrow Noon, Advise."

A wire worded as above that has been proceeded by the first example shown above would give the General Office the following information: The truck developed differential trouble two miles east of Huntington, but because of the distance from the garage, and the nature of the repairs, the driver is of the opinion that the repairs will require so much time that there will be a delay in schedule.

The second wire indicates that the total cost of all repairs will be $40.00, and instead of arriving in Pittsburgh the first thing in the morning, the shipment will be delayed until noon. It also

shows that the shop doing the repairs is not agreeable to billing us direct but must have the money when the repairs are completed. Another example of a typical wire may be as follows: "Need Brake Lining, Bill Direct $21.00, Can Make Schedule, Advise."

This wire shows the General Office that a brake lining job is necessary before proceeding further. It also shows that you have truck at shop and that shop is agreeable to making repairs at cost of approximately $21.00, sending bill direct to General Office. The time required to make repairs is such that instead of arriving at unloading point at 7:00 A. M., driver will arrive about 9:00 A. M.

F. In the event that the estimate of repairs is over $50.00, the truckman is not to proceed with repairs until specific authorization has been obtained from the Equipment Division.

G. Disposition of Replaced Parts.—All parts which are replaced on company-owned equipment must be returned to Chicago as soon as possible. Unless the Equipment Division specifies the way in which parts are to be returned to Chicago, the driver will carry same on van until routed into Chicago.

H. Whenever repairs are made in cities in which we maintain branch offices, payment of repair invoices will be made by the branch manager upon presentation of the repair invoices and wire or letter of authority from the Equipment Division to the driver or to that branch office.

I. Winter Operation.—In order to operate a motor truck at maximum efficiency during the winter months there are a number of factors which must be given close attention. We are listing them below in order that none be overlooked and to insure that each truckman is reminded of them in order that all trucks be operated with the maximum efficiency.

(1) In order to prevent sludge and excessive condensation it is important that the motor be kept at an operating temperature of 160 to 180 degrees at all times.

(2) Before starting out after the motor has cooled off, driver should be sure that he idles it sufficiently to avoid operating with a cold motor.

86 (3) Idling of the motor will result in a waste of gasoline and also in increased repair bills, because of oil dilution from unburned gasoline. The idling should be kept at an absolute minimum.

(4) Oil dilution will also be brought about by excessive use of the choke, and this should be avoided.

(5) Before any antifreeze is added to the cooling system, it should be checked to make sure that all parts are tight and waterproof.

(6) Antifreeze will be carried in stock at the General Office. Information as to kinds and prices will be furnished each truckman before cold weather sets in.

(7) Regardless of the type of antifreeze used, truckman should watch it carefully to make sure that, at all times, he has sufficient protection for the weather in which he is operating. This is particularly important when stopping for the night, or when parked. If he has too much antifreeze for the weather in which he is operating, it will undoubtedly result in a waste of this material.

(8) A battery is subjected to more punishment during the winter both because of operating the lights more, and also because a battery is not as efficient in cold weather as when it is warm; consequently, it is important that the battery be kept fully charged.

(9) When an engine is operating perfectly there is practically no carbon monoxide gas in the exhaust; however, in most cases there is a trace of this; and as you know, this gas is extremely poisonous. Drivers should at all times make sure that they have sufficient ventilation, and if one becomes drowsy while driving, it may be the result of carbon monoxide. This gas does not have any odor, and it is very dangerous because of this. It is better to be a little uncomfortable from the cold than to be poisoned by carbon monoxide.

(10) Check the skid chains to make sure that they are in good condition because a chain which is broken or does not properly fit is of little value when it is needed.

It must be remembered that it is necessary to use more caution when driving on ice and snow than on dry pavement.

5. *Accessories.*—Under no condition are any accessories to be purchased for, or installed on company-owned equipment without specific authorization from the Equipment Division.

6. *Motor Oil.*—Lubricating oil of first quality must be used at all times. At most times the company has on hand in Chicago a supply of such oil, and this oil should be picked up when the truck is in Chicago in quantities sufficient to eliminate the necessity of purchasing oil on the road. When it is necessary to purchase oil on the outside, do so only in case lots (24 quarts).

Do not add any motor dope to either the gas or the oil. Graphite-loaded products can cause more trouble than they can possibly do good; consequently, they have no place in a truck motor.

87 AVOID CLAIMS

The driver who uses good judgment, handles his inventory and other paper work properly at all times will avoid claims. A good,

neat, courteous driver, fine equipment, and on-time schedules discourage many types of claims. That is typical Greyvan Service.

Satisfy Your Shipper

88 7. Tires.—Tires are one of the larger items of expense on our trucks, and to reduce this expense it is necessary that all drivers be familiar with and follow the instructions shown below:

(1) Inflation.—Each tire is designed for a maximum mileage at a given air pressure. If this pressure is allowed to drop below that for which it is designed, there will be excessive flexing in the side walls which will result in the generation of excessive heat, which will, in turn, cause early tire failures. Low pressure is also a cause for abnormal tread wear, reducing tire life considerably. Overinflation causes excessive tread wear and may also result in tire bruises from rocks or other sharp objects which may shorten the tire life considerably. The recommended tire pressure on the three sizes of tires on company-owned equipment are as follows:

750 x 20—60 Pounds.
825 x 20—65 Pounds.
900 x 20—70 Pounds.

Under no condition is the pressure of any tire to be allowed to drop below that shown above, nor are the pressures to be more than ten pounds above these shown. Tire pressures should be checked when the tires are cool and pressure should be brought up at that time.

(2) Bleeding.—Under no conditions are tires to be bled when they are hot. If this is done, as soon as the tires cool off, the pressure will then drop below the minimum and the tire will be underinflated.

(3) Alignment.—Improper caster, camber, or toe-in, will increase tire wear and any indication that tires are wearing unevenly should be reported to this office immediately so that we can take proper steps to correct the condition. The truckman should report hard steering, shimmying, and wandering, as these are usually indications that there is something wrong with the wheel alignment.

(4) Braking.—Faulty brakes will cause abnormal tire wear in addition to making vehicles unsafe for operation over wet or icy surfaces. Unequal brakes or grabbing brakes should be corrected as soon as possible, or else reported to the General Office. Truckman should eliminate as much as possible any sudden stops, as this may cause skidding of the tires which will result in a flat spot which, in turn, may cause a separation between the various sections of the tire, thus reducing its life.

(5) Tire Mating.—Whenever tire replacements are made, truc man should use as much care as possible to make sure that any tir that are placed together on dual wheels are of the same diamete When this is not possible, it should be made sure that the tire wi the least tread is placed on the inside of the duals.

(6) Bent Rims.—Any dent in the rim flange should be reporte so that it can be replaced because this condition may cause a chang in the flexing of the tire wall which may result in premature sid wall failure.

(7) Tire Replacements.—When tires fail on the road, truckma should wire this office, giving the size of tire needed, and arrange ments will be made to furnish same from Chicago. Under no cir cumstances should a truckman go to a tire store when wiring, be cause it may be very likely that we wish to use a different make of tire.

89 It is intended that all company-owned tires shall be branded as soon as possible after placing them on the vehicle; and if a branded tire fails on the road, truckman should include brand number in his wire when requesting replacement. If a new tire fails, such information should be included in his wire. Examples of wires are shown below:

"Tire No. 1825 Blown Out. Need Replacement Here."
"New 825 Goodyear Blown Out. Need Replacement Here."
"Blew 825 New Recap. Need Spare Sap."

On any tire changes made away from Chicago, truckman should show brand number or serial number of the tire removed, and the serial or brand number of the tire placed on the wheel. He should also show the approximate mileage at which the replacement was made. The tire change should be recorded in the lower left-hand corner of the truckman's Weekly Report." Unless he is advised otherwise by wire, he should hold the old tire until he reaches the first company office, at which point he will turn in this tire and secure a receipt from the office manager.

90 (8) Gasoline.—The cost of fuel is one of the largest individual items of expense in the operation of a truck. All Company drivers are to observe the following, and we suggest that owner-operators do also:

A. "Regular" gasoline is to be purchased at all times, and under no conditions do we want "third grade" gasoline purchased. Premium-priced fuel is to be used only upon specific authorization of the Equipment Division.

B. When buying gasoline the driver is to watch the attendant to make sure that all the fuel shown on the ticket is actually placed in the tank and that the correct grade is furnished.

C. Drivers are expected to buy gasoline at as reasonable a price as possible and be familiar with the difference in state taxes in order to take advantage of these differences when possible. Usually gasoline prices are lower in the larger cities than at roadside stations, and consequently the driver should buy most of the fuel in the larger cities. However, in all cases, as much gas as possible should be purchased at our regular, designated parking lots or refueling stations as shown in Section 9 of the Manual.

D. We have found a few service stations where the use of credit cards has been so mishandled, or the stations are undesirable in other respects, that it is necessary that a list of them be compiled from time to time. Any station on this list is not to be patronized except in an emergency. In such cases the driver is not to buy more gas than is necessary to get the truck to another station.

E. It is the driver's responsibility to make sure that the truck delivers the maximum mileage per gallon of gas. Consequently, he is to make frequent tests to determine the mileage being obtained and record the results in the lower left-hand corner of the Weekly Report. Show the miles traveled and the gas consumed.

F. To obtain the maximum mileage the motor should be tuned approximately every 5,000 miles by a dealer or branch of the manufacturer of the truck.

G. Frequent inspections of gasoline tanks and lines are to be made. If any leaks are discovered, they must be repaired at once.

H. Gasoline mileage is seriously affected by driving habits. Observe the following:

(1) Have the carburetor set so that the motor idles at the lowest possible speed and do not allow the motor to idle any more than absolutely necessary.

(2) "Gunning" the motor when starting wastes gasoline and should be kept at a minimum.

(3) When a motor is allowed to "lug" on grades it takes more gasoline than if the transmission is shifted to the proper transmission gear ratio.

91. SECTION 5—CARE OF INSIDE EQUIPMENT

Each Truckman must keep in mind the fact that inside equipment is expensive and deserving of the best of care. Proper equipment, kept clean, is one of the most valuable assets of our business, and the operator must so consider and care for it as such.

92 CARE OF INSIDE EQUIPMENT

1. Pads.—The greatest attention must be given to the condition and care of pads at all times. They must be kept clean and in repair. They must be neatly folded, stacked, and tied off inside the van when the van is empty. Don't use good pads to protect stoves, washing machines, and dirty or greasy articles. Use hopsacking or an old worn pad. Take every precaution to avoid getting pads wet. If they do get wet, don't stack them in that condition. If unable to dry them outside, string lines inside the van and hang them up. Don't place pads on sharp edges or corners, which might cut them. Protect such edges or corners with folds of hopsacking before padding. Sweep or shake the dust and lint from pads before stacking them. Don't walk around on pads while loading or unloading.

2. Hopsacking or Burlap.—Use wherever extra protection of regular pad is unnecessary such as on stove, washing machines, or rough pieces. Use for small articles where space is at a minimum. Keep clean (material is washable) and neatly folded and stacked.

3. Rope.—Must be neatly coiled and hung on door or side of van when not in use. Discard old or frayed rope before it has a chance to brake and cause a claim. Don't use thin rope or cord to hold up heavy pieces. Use at least 3/8 inch rope for all inside tying.

4. Rubber Bands.—These may be easily obtained by cutting up old inner tubes into 2-inch strips around the circumference of the tube. These are very useful to hold pads on bed ends, etc.

5. Piano Skid.—Keep neatly tied to side of van, or in skid box, when not in use.

6. Dollie.—Keep dollie wheel plates bolted tightly to framework. Oil wheels occasionally.

7. Tarpaulin.—Keep clean and in repair. Can generally be cleaned by use of a stiff brush and soap and water. Fold lengthwise along seams and roll into a compact bundle. If tarpaulin begins to leak, have it repaired and/or re-water-proofed at once.

8. Canvas Floor Strips.—May be cleaned the same as tarpaulin. Keep rolled up in bag furnished for same.

9. Refrigerator Cover.—Keep clean and protect by rolling in a large piece of hopsacking.

10. Furniture and Mattress Covers.—Must be kept clean with frequent washings, and neatly folded and packed in their canvas cover. Guard against getting holes snagged in them and have such holes repaired promptly if they do appear.

11. Inside Cleanliness.—Most of the dirt and lint which accumulates on pads and covers comes from the furniture itself and

could be reduced by dusting the furniture before covering or padding it. However, this would be impracticable, in most cases, but some attention should be given to it while examining the pieces for damages before loading. In any case, the floor of the van must be thoroughly swept out after every load and the accumulated dust on the ribs behind the slats (slat-type semitrailers) should be cleaned out from time to time.

12. Port-O-Robes.—These should be protected with hopsacking when not in use and tied to inside of van. These should be kept clean and in good repair.

93 LITTLE THINGS THAT HELP

Laying of floor coverings, placing of refrigerator covers, special furniture covers, use of castor bags, labelling of containers are all routine matters in Greyvan Service. Adding to the regular service makes better satisfied shippers. Lay a pad over the corner stairway post; cover furniture when it is raining; perform little extra services that will make the shipper appreciate that there is no move so satisfactory as that performed by Greyvan.

94 SECTION 6—CARE OF TRUCK—PHYSICAL

Inasmuch as the moving business is a personal service, and, in general, deals with the shipper directly, it becomes just as important to have a clean, polished van as it does to be personally clean and neat. Remember, the Sales Department has sold the shipper on perfect equipment, and if a Truckman shows up to load with a dirty, rust-spotted van, it is very difficult to convince the shipper that our service will come up to the standard that he has been led to expect.

95 CARE OF TRUCK—PHYSICAL

1. Cleanliness.—Before reporting for any load, truckman is to inspect his van. If it is dirty, it must be washed. If it is dusty, it must be wiped off. If the truckman's time is too valuable at the moment, he should have it done. In any case, unless it is raining or there are no facilities for washing the van, truckman should never go on a job without a clean van.

2. Soap.—Never use soap to clean a van. Nothing will ruin a paint job quicker or more completely. Use a good cleaner and polish.

3. Rust Spots.—Always have a can of blue and a can of white paint on hand, to touch up scratches and spots. Watch fenders, rub rails, hoods, cowls, and around the radiator.

4. Wheels.—Paint wheels frequently. They have to take lots of punishment.

5. Roof.—In order to avoid claims from water damage it is necessary to keep roof in good condition. Any damage to roof covering should be repaired immediately. A canvas roof must be painted with aluminum paint often to keep it waterproof.

96 REAL SERVICE

Greyvan promises its shippers the very finest long distance moving service available. It is mainly on the shoulders of the truckman to satisfy our exacting clientele. Your selection as a member of our organization and your continuance in our service are testimonials to your ability to render typical Greyvan Service.

97 SECTION 7.—SAFETY RULES

Safety and courtesy go hand in hand. The courteous driver is almost invariably a safe driver. Just because a Truckman is driving a big truck capable of crushing 80 percent of the traffic he meets or passes, he should never permit himself to adopt the attitude that he owns the road. He should be considerate of other traffic, tolerant of the mistakes made by nonprofessional drivers, and always drive his truck in a manner that will enhance the prestige of Greyvan Lines, Inc. and of its truckmen. It is safe to say that a large number of car drivers are antagonistic toward trucks. They feel that trucks are a menace and a nuisance on the highway and should be abolished. In view of these circumstances, it is the Truckman's duty to do his part toward reversing this feeling. He should do his bit toward showing the public that truck drivers are the safest, most courteous drivers in the world.

98 SAFETY RULES

I. C. C. Safety Regulations.—A copy of the safety regulations prescribed by the I. C. C. (Loose Leaf binder) will be issued with this Manual and each driver must be familiar with and abide by the rules contained therein. In addition to these rules and regulations, the following rules are specifically prescribed for drivers in the service of Greyvan Lines, Inc.:

1. Speed.—(2.06)* .40 Miles Per Hour Must Not Be Exceeded under any circumstances regardless of schedule or any other instructions to the contrary.

*Where a number is shown at the beginning of each rule this is the section number under which the subject is treated in the I. C. C. Safety Regulations.

2. Brakes.—(2.21 & 3.32) Before leaving a parking lot always test the brakes to determine whether they are working properly. Whenever such testing reveals the brakes to be faulty, insufficient, or positively ineffective, the truck must not be taken out on the road until proper repairs have been made.

Always use the motor as a brake on hills. Before starting down a steep hill drop gears down into a lower ratio. Go down in first or second. Coasting down any hill with gears not meshed is strictly prohibited. Do not allow motor to be turned up to a speed greater than it would normally be driven in that gear.

3. Parking.—(2.21, 2.22, & 2.24) Whenever leaving truck unattended be considerate of others. Avoid parking in such a manner that it will interfere with the operation of other vehicles. Be particularly careful about leaving truck unattended while loading and unloading. Pads and equipment are very tempting, and same may be lost in this manner. Tire changes or mechanical work should not be done at a point where truck is on an up or down grade. Proceed to a point of safety and make the change there. If, in an emergency, truckman must stop or must park on an incline, he must properly block wheels to prevent truck from moving. Cut front wheels into curb, if any. Also stop motor with gears in mesh.

4. Weather Conditions.—(2.31) Whenever, on account of snow, rain, fog, or other weather conditions, it becomes impossible for the truckman to see the road ahead or it becomes dangerous to drive, he is to pull his truck off the road until he can continue in safety. During winter months he will be confronted with sudden changes in temperature with resultant slippery, slushy, icy roads, making it very difficult for him to drive. Under such conditions he is expected to take extraordinary precautions to avoid accidents.

5. Lights.—(2.25, 2.26, 2.27, 2.28, 2.29, & 2.30) Before leaving a loading point or parking lot always test the entire lighting system. Correct any faults before leaving town. During the hours requiring lighting three lighted oil-burning lanterns must be displayed in addition to the regular electric-light system at the rear extremity of the vehicle or load. No spot light shall be operated at any time in violation of any city ordinance or state law, or be permitted to throw its light in such a direction that it would blind other operators of vehicles on the highway. The spot light is a handy and necessary adjunct to safe driving, but it must be used with good judgment and never used unnecessarily.

6. Turn Signals.—All trucks in the service of Greyvan Lines, Inc., are equipped with electric directional signals which must always be used when making right or left turns or when changing

line of traffic. It is imperative that when change of direction has been completed the signal be discontinued.

7. Packing.—It is obvious that backing of a van should be avoided as much as possible; however, when necessary, the driver must have some one at rear to guide and warn him.

99 8. Passing.—(2.17 & 2.18) When intending to pass another vehicle traveling in the same direction be certain no other car is approaching from the opposite direction and that no curve or hill is just ahead and that there is room to pass the car ahead without crowding it off the road. Also be certain that no car or truck is about to pass you from the rear. The responsibility of avoiding accidents while passing overtaken vehicles rests with the driver of the passing vehicle. When passing a horse-drawn vehicle, slow down. If horse shows fright, stop; and if requested by person driving, stop motor until danger is past.

9. Open Range.—Many state laws, particularly in southern and southwestern states, permit livestock to roam at large. This creates an extremely hazardous driving condition. Each driver must observe extraordinary precaution when driving under these conditions.

10. Precaution at Railroad Grade Crossings.—(2.13) While most states do not require that a truck make a full stop before crossing railroad tracks, as a matter of safety, the driver must slow down to a point that the truck may be easily stopped if necessary. If, however, the state law does require a full stop to be made, the law must be rigidly adhered to while in that state. If vision is obstructed in either direction come to a dead stop and be sure that tracks are clear before proceeding. If the driver is waiting for a train to clear a crossing, he should not proceed after the train has passed until he is positive that there is nothing coming from the other direction. He should never shift gears while crossing a railroad track.

11. Adequate Space Between Vehicles.—(2.12) When following traffic the driver must maintain safe braking distance between vehicles to allow stopping, and sufficient distance to permit adequate space for an overtaking vehicle to enter and occupy space without danger. There is no excuse for colliding with the vehicle ahead. When "doubling" with another truck the driver must stay at least 500 yards behind that truck on the highway. He should be particularly careful that this distance is maintained in the mountains.

12. Accidents—Instructions & Reporting.—(a) Do not discuss any accident, except on demand of police authorities, or adjusters for insurance companies in which your van is insured, or company office managers and assistants.

(b) Do not under and circumstances admit liability or responsibility for any accident to any persons who have been injured, or whose property has been damaged; or to any witnesses, police authorities, or any other insurance company representative. This is important for the proper protection of your own interest.

(c). Always obtain the names and addresses of as many witnesses as possible, and carefully enter the information on accident report in space provided for such purposes. Care in obtaining witnesses may say you $50.00 in some accidents. It is always advisable to obtain as many names as possible, even though they may not actually have seen the accidents, as this permits an insurance adjuster to make a very thorough and careful investigation.

(d) Be sure to protect wreckage of vehicles and cargo, if any, from further loss or damage by theft or other causes. If necessary, hire a watchman (at the lowest possible cost).

(e) Any accident involving or resulting from the operation of the vehicles in charge of any truckman or driver (regardless of how slight it may be) must be reported on regular accident report form. One of these reports must be submitted to the General Office in every case even though you have been interviewed by an insurance adjuster. These accident report forms have been made available and are to be carried on all vans in holder provided. The report must be filled in at scene of the accident as quickly as possible after its occurrence. Where necessary, to better explain the accident, the report is to be accompanied by a letter.

100 Types of accidents and locations are classified below with appropriate instructions for reporting their occurrence (with reference to public liability and property damage insurance).

A. Accidents Resulting in Personal Injury, no Matter How Slight (To Other Than Persons on the Van) or Property Damage Apparently Amounting to $50.00 or More.

1. If accident occurs in city where a branch office of Greyvan Lines is maintained, or within a radius of 25 miles from any such office, telephone your report to such office immediately and follow the manager's instructions. Submit your written report of the accident on the proper form, accompanied by letter of explanation, to such office promptly.

2. If accident occurs in any other location, telegraph the General Office; then, either wait for further instructions, or keep the telegraph office advised where to reach you with a reply. Do not leave the immediate vicinity until such further instructions have been received. Be sure to make out your accident report immediately and mail it to the General Office with all available in-

formation. These telegrams must include the items of information indicated herewith:

(a) Date and time of accident.

(b) Location of acident—Be Specific.

(c) Indicate persons injured, and extent, regardless of how slight injury may be.

(d) Probable amount of damage to property of others.

(e) Nature and probable amount of damage to van.

(f) Are you able to proceed with shipment?

(g) Is there any apparent cargo damage; how serious?

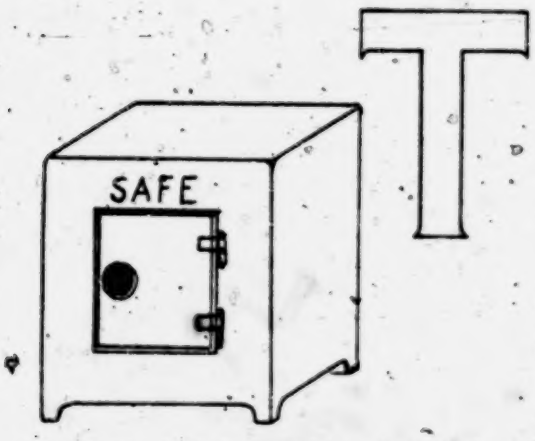
B. Accidents Resulting Only in Property Damage Apparently Less Than $50.00.

1. If accident occurs in city where branch office of Greyvan Lines, Inc., is maintained, or within a radius of 25 miles from such office, make out and properly sign your report at scene of the accident; and either turn it in to such office, or if you have already left the office and are on route with a shipment, mail it to the General Office immediately.

2. If accident occurs in any other location, make out and properly sign your accident report at scene of accident, and mail it immediately to the General Office.

Be sure your accident report is properly signed in all cases. When submitting an accident report to a branch office in person, always give them complete information and advise definitely the probability of cargo damage, or the presence of collision damage to your van. If the accident report is to be mailed to the General Office in keeping with the above instructions, a letter should accompany same giving all additional details possible and indicating the possibility of cargo damage; or the estimated amount of damage to your van.

Accidental Injury to Company Drivers.—(These instructions do not apply to contract truckmen or parties employed by them.) Should the company-driver or helpers employed by him to assist in loading or unloading, happen, in the regular scope of his employment, to be injured (regardless of how slight the injury may be), notify the General Office either by letter, telegram, or telephone; depending upon the seriousness and urgency of the circumstances. Use good judgment. Take no chances of serious infection or further injury. State time, date, place of injury, names and addresses of witnesses. Explain clearly the nature and extent of injury and how it occurred.



101 **Safety in Driving—Safety in Working**
Safety in Thinking—Safety Always

Safety is a measure of your Intelligence, Ability, Skill, Methods, and Application.

A good Safety Record gives you More Security in your work—makes Better Earnings possible—Avoids Excessive Operating Costs.

Safety is the First and Most Important feature of Greyvan Service. Don't take chances. Don't get hurt. Don't fool—one chance may be your last.

102 GREYVAN LINES, INC.

GENERAL LETTER

Subject File: Safety.

JULY 18, 1941.

To All Branch Managers, Truckmen, and Company Drivers:

It is reported that many drivers have complained against the company, and the Dispatcher particularly, on schedules which they have been assigned. This criticism or complaint is unjust, unwarranted, and results from a misunderstanding on the part of those concerned. For this reason a general letter of July 15, 1940, under the same subject file, has been reissued and a copy is attached hereto.

It is highly important that each man charged with the duty of driving understand thoroughly the position of the company and the Dispatcher on the matter of schedules. It will be appreciated that if a driver fails to observe and abide by the instructions which

have been issued on the matter of schedules, then he has no just reason for any complaint to anyone.

No driver is expected to do the impossible. No driver is expected or will be knowingly be permitted to willfully violate the I. C. C. rules and regulations on Hours of Service, since they vitally affect safety; but if an assignment is given which cannot be performed within the Hours of Service prescribed by the I. C. C. and with due regard to safety, there is only one requirement and that is that he cooperate by notifying the Dispatcher in the manner provided.

It Is of the Utmost Importance That All Driving Personnel Thofoughly Understand This Matter and Abide by the Instructions.

Geo. O. Watson.
GEO. O. WATSON.

AFS:LL

GREYVAN LINES, INC.

GENERAL LETTER

Subject File: Safety.

JULY 15, 1940.

(Reissued July 18, 1941)

To All Branch Managers, Truckmen, and Company Drivers:

Particularly for the benefit of the newer men, we repeat the following standing practices:

Safety is the First and Most Important feature of Greyvan Service. There is to be no compromise in considerations of Safety in any phase of your duties.

No Dispatching Schedule is to take preference over Safety.

No Dispatching Schedule is to be performed in violation of the I. C. C. Safety Rules and Regulations, and in particular, those pertaining to Hours of Service of Drivers. In the event such rules and regulations conflict or interfere with performance of any given schedule, the rules are to be observed without question. (They are Governmental requirements having the effect and force of Federal Law). But, the Dispatcher is to be notified in each instance according to current practice.

Be Sure you Understand and Observe These Instructions at All Times.

Bind This Sheet Permanently in Your Copy of "Manual for Truckmen," Immediately Following Section 7.

Geo. O. Watson.
GEO. O. WATSON.

GREYVAN LINES, INC.

GENERAL LETTER

Subject File: Safety.

JULY 15, 1940.

To All Branch Managers, Truckmen, & Company Drivers:

Particularly for the benefit of the newer men, we repeat the following standing practices:

Safety is the First and Most Important feature of Greyvan Service. There is to be no compromise in considerations of SAFETY in any phase of your duties.

No Dispatching Schedule is to take preference over Safety.

No Dispatching Schedule is to be performed in violation of the I. C. C. Safety Rules and Regulations, and in particular, those pertaining to Hours of Service of Drivers. In the event such rules and regulations conflict, or interfere with performance of any given schedule, the rules are to be observed without question. (They are Governmental requirements having the effect and force of Federal Law.) But the Dispatcher is to be notified in each instance according to current practice.

Be Sure You Understand and Observe These Instructions at All Times.

Bind This Sheet Permanently in Your Copy of "Manual for Truckmen," Immediately Following Section 7.

AFS:IN.

GEO. O. WATSON,

104 SECTION 8—CREDIT CARDS

Gasoline credit cards are issued to each van. In order to insure proper handling of these, definite rules have been established and must be followed. These rules are outlined on the following page.

1. All credit cards are to be kept in transparent folder that is inside back cover of this manual.

2. The cards are to be used by the driver only, and it is his responsibility to make sure that they are properly handled.

3. If any card is lost, the driver is to notify the General Office by wire immediately upon noticing that the card is missing.

4. Gasoline, oil, and grease are all that are to be purchased on these cards. Under no conditions will the driver use these cards to secure accessories, pads, equipment, etc.

5. The driver is expected to be sufficiently familiar with the cards issued to him so that he will not attempt to secure gasoline from some station that does not honor any of the cards currently issued by the company.

6. The receipt for gasoline or oil is to be completely filled out, showing the van number, amount of gasoline or oil purchases, the price per gallon or case, and the total bill is to be totaled with any taxes included.

7. The credit cards are the property of the Greyvan Lines, Inc., and when a truckman leaves our service, all cards must be immediately turned in to the Equipment Division of the General Office.

106 UTOPIA

A mover's Utopia would be a moving business without claims—every shipper pleasant and agreeable. That may not be possible but there is still not truckman who cannot do a better job. Greyvan already leads the field in the handling of shipments with the least amount of complaints.

You Can Make the Record Even Better

107 SECTION 9—LISTS OF OFFICES, AGENTS, AND PARKING LOTS

Truckmen will receive changes in these lists from time to time. Some of these changes will be by General Letter. In such cases corrections on your lists should be immediately noted. New lists will be issued from time to time and are to be immediately substituted for the last list furnished.

Where Parking Lots are designated they are the only parking places which will be used in the respective cities.

Be sure your lists are referred to whenever you report in any city. If we have an office or agent in that city report there before loading or unloading.

108 PARKING LOTS

(Corrected to 2/29/40)

Names and addresses of parking lots in cities where Greyvan Lines Offices are maintained.

City	Station and address	Telephone
Akron, Ohio	Broadway Service, Inc., 34-36 S. Broadway	Blackstone 0332.
Baltimore, Md	Lord Baltimore Filling Station, Baltimore & Fallsway	Calvert 5654.
Boston, Mass	Socony Gas Station, Corner Dover & Albany	Devonshire 9765.
Buffalo, N. Y.	Emil's Parking Lot, 303 Franklin St.	Cleveland 9863.
Chicago, Ill	Day-N-Nite Service Station, 1558 S. State St	Victory 9059 (Mr. Arends).
Cincinnati, Ohio	Firestone Service Station, 1630 Reading Rd	Cherry 3301.
Cleveland, Ohio	Sharp's Service Station, 2103 Payne Ave	Prospect 9249.
Columbus, Ohio	McGovern's Truck Haven, 276 West Broad Street	Phone M.A. 6310.
Dayton, Ohio	Snell Oil Co., 900 West 3rd St	Fulton 0684 (J. S. Craven).
Detroit, Mich	Standard Oil Station, 8448 Woodward Ave	Trinity 29590.
Indianapolis, Ind	Hoosier Petroleum Co., Inc., 45 S. West St	Lincoln 0517.
Louisville, Ky	Ohio Linco Service Station, 1st & Liberty	Wabash 9747.
Milwaukee, Wis	Kern's Parking Lot, 837 North Sixth St	Broadway 2973.
New York, N. Y.	R & K Service Station, 32-07 Queens Blvd. near 22d Place, Long Island City.	Stillwell 4-9887.
Newark, N. J	Pennsylvania Service Station, 937 Raymond Blvd	Mitchell 2-7221.
Philadelphia, Pa	Socony-Vacuum Service Station, 33rd & Walnut	Baring 9235.
Pittsburgh, Pa	Republic Gas Station, 216 Anderson St., N. Side	Cedar 9838.
St. Louis, Mo	Van Houten's Shell Serv. Station, 10th & Spruce Sts	Garfield 5576.
St. Paul, Minn	Mobile Gas Station, Raymond & University	Nestor 9185.
Syracuse, N. Y	Pure Oil Station, 141 West Onondaga St	4-9539.
Washington, D. C	New Bill's Esso Service, 1943 New York Ave. NE	Lincoln 8759.

Parking lots in cities where we maintain agents.

Atlanta, Ga	Speed Oil Co., 450 Whitehall St. SW	Mr. Lunceford.
Birmingham, Ala	Royal Tire Service, 1600 1st Avenue, N	7-8876.
Kansas City, Mo	Watson Station, Corner 14th and Oak Sts	Grand 9614.
New Orleans, La	2101 Burgundy St	Franklin 2167.
San Antonio, Tex	Redford Transfer & Stge., 140 Fredericksberg Rd	Pershing 8183.

109 LIST OF GREYVAN LINES BRANCH OFFICES AND SALES AGENTS

MARCH 15, 1942.

To Branch Offices, Sales Agents, Truckmen, and General Office Employees:

Upon Receipt of This List Please Destroy All Previous Lists.

1. All Greyvan branch offices and sales agents are listed alphabetically by state and city.

A. Company owned and operated offices are denoted by the name of the city appearing in capital letters:

B. The number appearing below the name of a city indicates the office or agents number. (This for convenience of Accounting Department.)

C. As a matter of convenience we list Greyvan branch offices separately. In the agents register we also name the branch office cities, but it is necessary to refer to the individual branch register to obtain pertinent data. Warehouse agents located in branch office metropolitan areas are listed on the branch register under their respective locations, however, all matters must be taken up through the Greyvan Office at that point, and not with the warehouse agent direct.

D. A number after the name of the Agent indicates the office to which the agent is assigned, as follows: Peekskill, N. Y., A. D. Wightman, 8 (New York).

E. For agency management purposes our operating territory is divided into four zones.

A number prefixed by the letter Z appearing immediately after the name of the agent will indicate the zone in which the agent is located. In cases where the zone letter (such as Z1, Z2, etc.) is shown after the agent's name, the agent reports direct to the General Office instead of through a Branch office.

F. For Branch management purposes our operating territory is divided into four districts. D1 appearing opposite the listing of a branch office denotes the branch is in District One, D2 denotes branch is in District Two, etc.

2. All matters relative to cities and towns not listed should be referred to the General Office in Chicago, located at 1338 South Michigan Avenue.

3. Warehouse and local haul facilities are offered or will be arranged in all cities and towns listed.

GREYVAN LINES, INC.,
1338 South Michigan Avenue,
Chicago, Illinois.

110 GREYVAN LINES, INC. BRANCH OFFICES AND WAREHOUSE SUBAGENTS

Alabama

Birmingham 56—Greyvan Lines, Inc., 941 Martin Building, Tel. 4-2204—D3.

Connecticut

Hartford 93—Greyvan Lines, Inc., 125 Trumbull St., Room 402, Tel. Hartford 2-6683—D1.
Warehouse Subagent: Charter Oak Trucking Co. 161 Front Street.
New Haven 53—Address all communications to Hartford Office—Greyvan Lines, Inc., 152 Temple St., Room 613, Tel. New Haven 7-0241—D1.

Delaware

Wilmington 15—Greyvan Lines, Inc., 10th & King St., Tel. Wil. 4-2404—D1.

District of Columbia

Washington 12—Greyvan Lines, Inc., 1112 Woodward Building, Tel. National 7690—D1.
Warehouse Subagent: Curtis Bros. Mvg. & Stge. Co., 1110 V Street, SE.

Georgia

Atlanta 61—Greyvan Lines, Inc., 218 Red Rock Building, Tel. Jackson 7827—D3.

Illinois

Chicago 2—Greyvan Lines, Inc., 1338 So. Michigan Ave., Tel. Victory 7400.
Warehouse Subagents: Anderson Bros. Storage Co., 3141 Sheffield Avenue; Peterson Fireproof Stge., 1011 East 55th Street; Scully Storage Co., 723 Oak Street, Winnetka, Illinois.

Indiana

Indianapolis 1—Greyvan Lines, Inc., 302 Merchants Bank Bldg., Tel. Riley 7100—D4.

Kentucky

Louisville 21—Greyvan Lines, Inc., 226 Heyburn Bldg., Tel. Wabash 5891—D3.

Louisiana

New Orleans 57—Greyvan Lines, Inc., 201 Carondelet Bldg., Tel. Raymond 8332—D3.
Warehouse Subagent: Liberty C. Cyrus Stge. & Van Co., 225 North Peters Street.

Maryland

Baltimore 29—Greyvan Lines, Inc., 351 Equitable Bldg., Tel. Plaza 2404.

111 Massachusetts

Boston 14—Greyvan Lines, Inc., 241 Park Square Bldg., Tel. Hancock 9044—D1.
Warehouse Subagent: Howard Stge. Warehouse Co., 6 Howard Street, Roxbury, Mass.
Springfield 330—Address all communications to Hartford Office.—Greyvan Lines, Inc., 31 Elm St., Tel. Springfield 25538. D1.
Worcester 27—Greyvan Lines, Inc., 306 Main Street, Room 204, Tel. W 5-0032—D1.

Michigan

Detroit 4—Greyvan Lines, Inc., 10226 Woodward Avenue, Tel. Townsend 82107—D2.
Warehouse Subagents: Lenox Moving & Storage Co., 1038 Lake View Avenue; Birmingham Mvg. & Stge. Co., 303 East Maple, Birmingham, Michigan.

Minnesota

Minneapolis 31—Greyvan Lines, Inc., 1111 Nicollet Ave., Room 322, Tel. Bridgeport 7743—D4.
Warehouse Subagent: United Warehouses Corp., 708 South Third.

Missouri

St. Louis 5—Greyvan Lines, Inc., 1217 Syndicate Trust Bldg., Tel. Garfield 0400—D4.
Warehouse Subagents: Maplewood Moving & Storage, 601 East Lockwood Avenue, Webster Groves, Mo.; John A. Ryan Mvg. & Stge., Inc., 123 North 3rd, East St. Louis, Illinois.

Nebraska

Omaha 25—Greyvan Lines, Inc., 300 Brandeis Theater Bldg., Tel. Atlantic 3710—D4.

New Jersey

Newark 10—Greyvan Lines, Inc., 665 Broad St., Room 809, Tel. Market 3-2438.
Warehouse Subagents: Bressman Moving & Storage, 49 Frelinghuysen Ave.; Capitol Storage Corp., 23 Campfield Court.

New York

Albany 91—Greyvan Lines, Inc., 167 Chestnut St., Tel. Albany 4-4481—D1.
Buffalo 13—Greyvan Lines, Inc., 406 Jackson Building, cor. Delaware Ave. & Chippewa, Tel. Washington 8646—D2.
Warehouse Subagent: E. F. Daley, Inc., 65 Purdy Street.
New York 8—Greyvan Lines, Inc., 393 7th Ave., Room 1308, Tel. Bryant 9-4190.
Warehouse Subagents: Gramercy Stge. Whse., 515 E. Seventeenth St., Manhattan:
Thomas F. Healey & Sons' Whse., 2521 Tilden Ave.,
112 Brooklyn Lightbody Bros. Fireproof Stge., 89 Division Street, New Rochelle, N. Y.; Mt. Pleasant Stge. Whse., Pleasantville, N. Y.; Murphy Storage Warehouse, Great Neck, Long Island; Sofia Bros., Inc., 4396 Broadway.
Rochester 26—Greyvan Lines, Inc., 123 Powers Building, Tel. Main 4842—D2.
Syracuse 16—Greyvan Lines, Inc., 134 West Onondaga St., Tel. 2-3226—D2.

Ohio

Akron 28—Greyvan Lines, Inc., Metropolitan Bldg., 39 So. Main Street, Tel. Franklin 0321—D2.

Cincinnati 7—Greyvan Lines, Inc., Fountain Square Bldg., 505 Walnut Street, Tel. Cherry 3242.
Warehouse Subagents: Klappert's Stge. Warehouse, 229 Scott Street, Covington, Ky.; Brighton Storage Company, 607-15 W. McMicken Ave.

Cleveland 6—Greyvan Lines, Inc., 329 Plymouth Bldg., 2036 S. Twenty-second, Tel. Cherry 4334.
Warehouse Subagent: Bramley Storage Company, 3900 Athens Avenue.

Columbus 23—Greyvan Lines, Inc., 50 W. Broad St., Room 3050, Tel. A D 6444—D3.
Warehouse Subagent: Kutschbach-McNally Corp., 628 Kerr Street.

Dayton 11—Greyvan Lines, Inc., 131 N. Ludlow St., Room 214, Tel. Adams 4560—D3.
Warehouse Subagents: R. B. & C. S. Tawney, 420 Hickory Street; Union Storage Company; 101 Bainbridge Street.

Pennsylvania

Allentown 24—Greyvan Lines, Inc., c/o Allentown-Easton Motor Exp., 1049 North Quebec Street, Tel. Allentown 3-2146—D1.

Philadelphia 9—Greyvan Lines, Inc., 316 Harrison Bldg., 15th & Market, Tel. Locust 1366—D1.
Warehouse Subagents: Quaker Storage Company, 2501 Germantown Avenue; Mt. Ephraim Storage Co., 1444 Mt. Ephraim Ave., Camden, New Jersey.

Pittsburgh 3—Greyvan Lines, Inc., 1003 Penn Avenue, Tel. Grant 1416—D2.

Rhode Island

Providence 807—Greyvan Lines, Inc., Room 1201, Industrial Trust Bldg., Tel. Dexter 8490—D1.

113

Texas

Dallas 35—Greyvan Lines, Inc., 903 Southland Bldg., Annex, Tel. Central 8500—D3.
Warehouse Subagent: Ahart Van & Storage Co., 2615 Elm Street.

Wisconsin

Milwaukee 45—Greyvan Lines, Inc., 2409 N. Maryland Ave., Tel. Lakeside 5200—D4.
Warehouse Subagent: ABC Kortsch Storage Co., 2409 N. Maryland Ave.

AGENTS

Alabama

Birmingham—See Branch Office List.
Cullman 13—Holmes Coal & Transfer Co., 206 1st Street, West, Ben Holmes—Z2.
Florence 7—Stewart Bros. Transfer, J. B. Stewart—Z2.
Gadsden 8—Bagley Transfer Co., 124 North Third Street, A. R. Bagley—Z2.
Mobile 9—Dave B. King, 209 North Royal Street—Z2.
Montgomery 10—W. M. Anderson, 105½ South Court Street—Z2.

Arkansas

Fort Smith 17—Sunflower Lines, Inc., 3rd & A Streets, W. R. Cawthon, Jr.—Z1.
Hot Springs 18—See Kilgore, Texas—Z1.
Pine Bluff 21—Red Line Tsfr. & Stge. Co., 219 West Barreque, Harry E. King—Z1.

Colorado

Colorado Springs 28—Smith Stge. & Tsfr. Co., 234 West Colorado Ave., Clarence A. Warren—Z4.
Denver 29—Duffy Stge. & Moving Co., 1521 Twentieth Street, J. F. Duffy—Z4.

Connecticut

Bridgeport 38—William B. Meyer, 42 Ann Street, Lloyd H. Meyer—93.
Danbury 40—Paul E. Serre, 10 Crosby Street—93.
Darien 42—Paragon Fireproof Stge., 183 Post Road, Capt. Thos. O'Connor—93.
Greenwich 44—Cotron's Moving Trans., 29 Sherood Place, Frederick Cotron—93.
Groton 45—Geo. P. Finch, 134 Baker Avenue.
Hartford—See Branch Office List.
Meriden 48—Thomas J. Harrigan, 87 Camp Street—93.
New Haven—See Branch Office List.
New London 54—See Groton—93.
Norwalk 55—Louis J. Gardella, Inc., 8 Smith Street, Louis J. Gardella—93.
Norwich 56—John H. Ford, New London Turnpike, Harry B. Ford—93.

115 Stamford 58—Goulden's Stge. & Van Co., 152 Summer Street, E. F. Leach—93.
Torrington 60—John H. Daley, 561 So. Main Street—93.
Winsted 64—C. A. Roberts Trans. Co., 36 Boyd Street, C. A. Roberts—93.

Delaware

Dover 981—Nap & Spence, 407 Loockerman St., Harry W. Spence—Z2.
Wilmington—See Branch Office List.

District of Columbia

Washington—See Branch Office List.

Florida

Jacksonville 71—Fred G. Jones, Jr., 412 Hildebrandt Building—Z2.
Miami 73—See Miami Beach, Fla.—Z2.
Miami Beach 74—AA Triangle Tsfr. & Whse., 537 Michigan Avenue, Milton Weissberger—Z2.
Pensacola 76—Bingham Transfer & Stge., 24 So. Brue Street, E. A. Allen—Z2.
St. Petersburg 79—Bee Line Transfer, 1530 Burlington Ave., N.—Z2.
Sarasota 77—Edward Breault, 343 West 8th St.—Z2.
Tampa 80—Bee Line Transfer Co., 230 South Water St., T. Goodall—Z2.
Tallahassee 82—Harrell's Tsfr. & Stge. Co., South McComb Street, P. O. Box 655, Frank M. Harrell—Z2.

Georgia

Atlanta—See Branch Office List.
Augusta 88—Harrison Transfer Co., 825 Calhoun Street, R. O. Harrison—Z2.
Macon 92—Macon Transfer Co., 664 Broadway, Walter S. Herin—Z2.
Savannah 93—Fedderwitz Trucking Co., Stiles Avenue, D. Fedderwitz, Jr.—Z2.

Illinois

Aurora 99—Martin Tsfr. & Stge. Co., 153 So. River Street—Z4.
Belvidere 100—C. W. Difford Transfer Co., 427 South State St., C. W. Difford—Z4.

116 Cairo 103—Dunlap Transfer Company, 418 Thirty-second Stret, J. E. Dunlap—Z4.
Canton 104—Cy Johnson, 84 West Myrtle—Z4.
Centralia 105—Jones Transfer Co., 209 North Oak Street, O. P. Jones—Z4.
Champaign 106—Champaign Tsfr. & Stge., 611 North Walnut Street, John Doran—Z4.
Charleston 107—Carl Hall Transfer Co., 1110 Division Street, Carl Hall—Z4.
Chicago—See Branch Office List.
Danville 108—Dunning & Hill, 318 East North Ave., Sherman Thomas—Z4.
Decatur 109—Parke Warehouses, 621 North Main Street—Z4.
Dixon 110—T. W. Lerdall Transfer, 306 Central Place, T. W. Lerdall—Z4.
Dwight 111—Struebling Transfer Co., 511 So. Lincoln Street, E. F. Struebling—Z4.
East Moline 112—See Moline—Z4.
East St. Louis 113—Refer St. Louis Office—Z4.
Elgin 114—Joseph F. Berna Transfer, 224 Wellington Avenue, J. F. Berna—Z4.
Elmhurst 115—Prager Transfer Co., 214 Claremont St., R. B. Prager—Z4.
Fairfield 116—Bryant's Freight Lines, 106 West Main, Richard F. Bryant—Z4.
Flora 117—R. O. Sparlin Mvg. Service, 415 So. Mills Street, R. O. Sparlin—Z4.
Freeport 118—Union Bus Depot, 220 E. Stephenson St., A. L. Hershberger—Z4.
Herrin 120—See West Frankfort—Z4.
Hoopeston 121—Lyon Bros. Stge. & Tsfr. Co., 226 North Market Street, Percy Lyon—Z4.
Jacksonville 122—City Transfer Co., 742 North Main Street, R. W. Green—Z4.
Kankakee 123—Offerman & Company, 124 North Chicago, A. E. Offerman—Z4.
Kewanee 125—Malone Trucking Co., 720 North Union St., C. Malone—Z4.
La Salle 126—See Peru—Z4.
117 Lawrenceville 127—Gray Transfer Co., 604 Eleven Street, R. J. Gray—Z4.
Lincoln 129—Coogan's Tsfr. & Stge., 723 Broadway, M. J. Coogan—Z4.
Marion 131—See West Frankfort—Z4.
Marseilles 132—Armstrong & Sons, 144 Lincoln Street, John Armstrong—Z4.

Mattoon 133—Hayes Freight Lines, 1991½ North 13th St., G. S. Hayes—Z4.

Moline 134—Knight Tsfr. & Stge. Co., 1725 3rd Avenue, A. P. Schmidt—Z4.

Mount Carmel 135—Froman Transfer, 604 Market, A. C. Froman—Z4.

Mount Vernon 136—Harlow Delivery Service, 1503 Broadway, Frank A. Harlow—Z4.

Murphysboro 138—J. W. Ward Transfer, 1919 Hortense, J. W. Ward—Z4.

Olney 140—S & V Truck Company, 230 West Butler St., C. H. Skinner—Z4.

Ottawa 141—Terry Trucking Service, 120 West Morris, Dale Terry—Z4.

Peoria 144—Thede Brothers, Inc., 110 N. Washington St., A. M. Thede—Z4.

Peru 145—Tobler Transfer Co., 1012 Peoria Street, C. F. Hill—Z4.

Quincy 147—Vidas Transfer Line, 109 North Third, A. Vidas—Z4.

Rockford 148—Willsey Transfer Co., 1452 Myott Avenue, T. E. Willsey—Z4.

Rock Island—See Moline—Z4.

Springfield 150—Merchants Tsfr. & Stge., 1000 East Monroe Street, L. B. Wolf—Z4.

Taylorsville 153—Rinker Tsfr. & Stge., 109 N. Chestnut St., H. R. Rinker—Z4.

Wayne City 159—See Fairfield, Ill.—Z4.

West Frankfort 155—Boner Brothers Tsfr., 502 East Main St., Leon Boner—Z4.

Zion 158—Dan Ray Transfer Line, 2704 Elm Street, Dan Ray—Z4.

Indiana

Anderson 166—Cary Shinkle Trucking Co., 528 West Eleventh St., Earl Caplinger—Z3.

117a Bedford 221—Stout's Transfer, 1701 K Street; Paul Stout—Z3.

Bloomington 169—Elgar & Bennett, 211 South Rogers, Thos. Elgar—Z3.

Connersville 173—T. J. Connell Trucking Co., Mount & Columbia Ave., T. J. Connell—Z3.

Evansville 179—Ballard Transfer Co., 915 N. St. Joseph Ave., Carl H. Ballard—Z3.

Fort Wayne 180—Klinger Trucking Co., 402 S. Barr Street, Paul E. Alleger—Z3.

Gary 183—Gary Storage & Van Co., 819 Washington St., K. Harrington—Z3.
Indianapolis—See Branch Office List.
Kokomo 188—Kinney Transit Lines, 423-30 Union Street, Joseph Kinney—Z3.
Lafayette 189—Otis P. Rawlings Tsfr. & Stge., 1712 N. Ninth Street, Otis P. Rawlings—Z3.
Logansport 193—McTaggart Transfer Co., 512 E. Market St.—Z3.
Madison 218—Madison-Louisville Tsfr., Inc., 700 Mulberry, Raymond M. Jones—Z3.
Marion 194—Hazel E. Lemon, 116 East Sixth St.—Z3.
Michigan City 195—L. F. Brown & Son, 216 Washington, L. F. Brown—Z3.
Muncie 198—Cavannall Trucking Co., 815 South Elm Street, C. L. Cavannall—Z3.
Peru 202—Wolf Coal & Trucking Co., 525 West 2nd, Daniel G. Wolf—Z3.
Rensselaer 219—J. A. Grant & Sons, Inc., 502 Clark Street, S. A. Grant—Z3.
Richmond 204—G. E. Taggart, 1100 South 9th St.—Z3.
Seymour 217—F. F. Bulmer Company, Box 437, E. G. Harlow—Z3.
South Bend 207—C. J. Peterson, 1011 South Main St.—Z3.
Terre Haute 208—Kord Tsfr. & Stge. Co., 2215 Sycamore Street, R. C. Kord—Z3.
Valparaiso 210—Murvihill Trucking Serv., 606 Lafayette, Mark Murvihill—Z3.
Washington 214—Killion Motor Express, 300 E. Van Trees St., J. C. Killion—Z3.
Winchester 216—By-Lo Furniture Co., Washington & Meridan, W. F. Reyman—Z3.

118 Iowa

Ames 224—White Line Transfer Co., 301 Kellogg, R. L. Barnard—Z4.
Boone 225—Standley Tsfr. & Stge., 928 Story Street, M. L. Standley—Z4.
Burlington 226—Rieke Motor Transfer Lines, 611 South Main St., H. W. Rieke—Z4.
Cedar Falls 248—See Waterloo, Iowa—Z4.
Cedar Rapids 227—American Tsfr. & Stge., 401 First St. S. E., A. T. Keyes—Z4.
Clinton 228—Bluebird Tsfr. & Stge., 315 North Second St., Mrs. Dorothy Pranger—Z4.

Davenport 230—Johnson Exp. & Tsfr., 1017 Mound, N. A. Johnson—Z4.
Des Moines 231—Reppert Tsfr. & Stge. Co., 100 Fifth Avenue, C. L. Thorp—Z4.
Dubuque 232—Walser Rapid Transfer Co., 357 East Twelfth St., H. Walser—Z4.
Fort Dodge 234—Abeel Transfer & Stge. Co., 414 Central Avenue, O. W. Abeel—Z4.
Fort Madison 235—Central Transfer Co., Denmark Road, O. D. Judy—Z4.
Iowa City 237—Maher Bros. Transfer, 106 South Dubuque St., R. D. Bothell—Z4.
Keokuk 238—Sinton Transfer Company, 523 Blondeau Street, T. F. Talbot—Z4.
Marshalltown 239—American Tsfr. & Stge. Co. (Rear), 119 E. State St., J. B. Crosby—Z4.
Mason City 240—Heimendinger Tsfr. Lines, 215 Fifth Ave. S. W., K. Heimendinger—Z4.
Mount Pleasant 241—See Burlington, Iowa—Z4.
Oskaloosa 243—See Burlington, Iowa—Z4.
Ottumwa 244—Daggett Tsfr. & Stge., 317 So. Wapello St., Wm. D. Daggett—Z4.
Washington 246—See Burlington, Iowa—Z4.
Waterloo 247—Barnes Transfer, 807 Walnut Street, Howard M. Barnes—Z4.

Kansas

Arkansas City 251—A. C. Transfer Co., 117 East Fifth Avenue, Albert L. Wellman—Z4.
Atchison 252—Grodick Tsfr. & Stge. Co., 119 So. Fourth St., E. A. Hoffman—Z4.
119 Chanute 253—Manley Transfer Company, 20 North Grant Street, F. L. Manley—Z4.
Coffeyville 254—Hastings Tsfr. & Stge. Co., 110 East Tenth Street, A. E. Hastings—Z4.
Emporia 256—L. A. Searcy Transfer Co., 23 West Fifth Street, L. A. Searcy—Z4.
Parsons 263—Oren Pemberton Tsfr. & Stge., 1711 Washington, Oren Pemberton—Z4.
Pittsburg 264—Dick's Transfer Co., 104 East 9th St., J. M. Scifers—Z4.
Wichita 267—Bamber's Storage Co., 120 No. Wichita, W. H. Ferguson—Z4.

Kentucky

Ashland 271—Chalmer Gullett Transfer, 957 29th Street, Chalmer Gullett—Z2.
Henderson 274—Kavanaugh Truck Line, 111 Second Street, Oscar Kavanaugh—Z2.
Lexington 275—Gillis Van Service, 725 Louden Street, J. R. Gillis—Z2.
Louisville—See Branch Office List.
Owensboro 276—Eck Miller Contract Co., Inc., 111-113 Frederica St., F. E. Miller—Z2.
Paducah 277—Burton Transfer & Stge., 115 North Second St., M. R. Burton—Z2.

Louisiana

Alexandria 287—Barron Truck Lines, 1720 Rapides Avenue, C. C. Barron—Z1.
Baton Rouge 280—Geo. W. Garig Tsfr. Co., 1009 St. Ferdinand St., R. A. Delaroderie, Jr.—Z1.
Lafayette 286—Louisiana Whse. & Dist. Co., 521 Garfield St., Alden J. LaBorde—Z1.
Minden—See Shreveport—Z1.
New Orleans—See Branch Office List.
Shreveport 285—Central Storage & Tsfr. Co., 709 Commerce Street, L. K. Townsend or R. A. Patterson—Z1.

Maine

Augusta 290—See Hallowell—27.
Hallowell 292—Harry Barrett, Water Street—27.
Lewiston 293—Maliar Brothers, 60 Middle Street, Frank Maliar—27.
Portland 294—Griggs-Turner Co., Inc., 185 Washington Avenue, G. H. Turner—27.

120

Maryland

Annapolis 297—Lichtenberg Motor Lines, Inc., 233 Main Street, J. M. Lichtenberg—29.
Baltimore—See Branch Office List.
Cambridge 301—H. Compton Reed, 119 Talbot Avenue—Z2.
Cumberland 298—John Appel Tsfr. Co., 514 Fairview Avenue, E. F. Appel—Z2.
Frederick 299—R. W. Graham, 19 East Third St.—Z2.
Salisbury 302—Samuel S. LeCates, 215 North Division—Z2.

Massachusetts

Adams 304—See North Adams—93.
Athol 305—A. K. Turner, 300 Exchange St.—27.
Boston—See Branch Office List.
Haverhill 317—See Lowell—27.
Lawrence 319—See Lowell—27.
Lowell 321—J. Vincent Murphy, 40 Central Street—27.
New Bedford 323—Geo. E. Tripp, 276 Elm Street—27.
North Adams 325—James Broderick, 519 Union Street, Mrs. George Gregory—93.
Pittsfield 329—Fred P. Cloutier, Inc., 109 Eagle Street—93.
Springfield—See Branch Office List.
Worcester—See Branch Office List.

Michigan

Ann Arbor 341—Fletcher's Moving Co., 1200 Brooklyn Street, A. E. Fletcher—Z3.
Battle Creek 342—Earns Moving & Delivery, 36 North Monroe, George H. Earns—Z3.
Bay City 343—See Saginaw—Z3.
Belleville 344—See Milan—Z3.
Benton Harbor 345—E. S. Small & Son, 857 McAllester St., L. H. McCowen—Z3.
Detroit—See Branch Office List.
Escanaba 347—Lency Clairmont Tsfr., Inc., 1803 7th Avenue, North, Lency Clairmont—Z3.
Flint 348—Thomas L. Johnston, 405 Genessee Bank Bldg.—Z3.
121 Grand Rapids 350—Radcliffe Stge. Co., 135 South Division Ave., Miss Elizabeth Radcliffe—Z3.
Hartford 370—E. Rasmuson, 301 So. Center Street—Z3.
Holland 351—Rooks Transfer Lines, Inc., 13–15 West Seventh Street, John Rooks—Z3.
Ironwood 354—Wright Dray Line, 503 North Hemlock, Geo. M. Voyce—Z3.
Iron Mountain 353—W. D. Cochran Motor Freight, 101 Carpenter Avenue, W. D. Cochran—Z3.
Jackson 355—Shaw Storage & Transfer, 207 Otsego Street, J. H. Shaw—Z3.
Kalamazoo 356—Chas. F. Bowman, 1215 Palmer—Z3.
Milan 359—Milan Truck Line, 252 Church Street, Thurlow Bodley—Z3.
Monroe 360—Kenneth Colton, 423 West Eighth St.—Z3.

Niles 362—Palmer Transfer Company, 214 North Front Street, Floyd Palmer—Z3.
Port Huron 364—Bradley & Son, 1521 Eighth Street, Ray Bradley—Z3.
Saginaw 365—Henne Moving Co., 623 East Genesee, Sam Henne—Z3.
St. Joseph 366—See Benton Harbor—Z3.
Sault Ste. Marie 371—See Escanaba—Z3.
Sturgis 374—Harold W. Meyers, 817 N. Nottawa—Z3.
Willis 372—See Milan—Z3.

Minnesota

Brainerd 377—Bolster Transfer Company, 315 South 7th Street, M. J. Bolster—Z4.
Minneapolis—See Branch Office List.
Rochester 381—Hoover Transfer Company, 203 10½ Place SE., H. H. Hoover—Z4.
St. Cloud 382—Maiers Transfer Company, 512 First St. North, N. A. Maiers—Z4.
St. Paul—See Minneapolis.
Stillwater 384—Peter's Truck Express, 924 North 3rd Street, Robert A. Peters—31.
Winona 383—Thein Transfer Co., 164 West Second St., W. W. Thein—Z4.

122 Mississippi

Biloxi 387—Barthes' Transfer Co., 502 Seal Avenue, F. J. Barthes—Z1.

Missouri

Booneville—See Moberly, Mo.—Z4.
Bowling Green—See Moberly, Mo.—Z4.
Brunswick—See Moberly, Mo.—Z4.
Cape Girardeau 399—Nichols Transfer Co., 1131 North Main Street, R. W. Nichols—Z4.
Carrollton—See Moberly, Mo.—Z4.
Carthage 400—Tabler Transfer Co., 141 South McGregor, Geo. E. Tabler—Z4.
Columbia 401—Orscheln Bros. Truck Line, 7th and Walnut, E. J. Orscheln—Z4.
Fayette—See Moberly, Mo.—Z4.
Fulton—See Moberly, Mo.—Z4.
Independence—See Kansas City, Mo.—Z4.

Kirksville—See Moberly, Mo.—Z4.
Jefferson City 404—L. A. Elliott Truck Tsfr., 319 West Elm Street, Mrs. Lawrence A. Elliott—Z4.
Joplin 405—Sunflower Lines, Inc., 1027 Virginia Avenue, L. R. Reynolds, Jr.—Z4.
Hannibal—See Moberly, Mo.—Z4.
Kansas City 406—W. E. Murray Transfer Co., 2049 Grand Avenue, Herb Scroggs—Z4.
Macon—See Moberly, Mo.—Z4.
Mexico—See Moberly, Mo.—Z4.
Moberly 407—Orscheln Bros. Truck Line, 339 N. Williams Street, W. C. Orscheln—Z4.
Monroe City—See Moberly, Mo.—Z4.
Paris—See Moberly, Mo.—Z4.
St. Joseph 409—Ross Delivery Service, 346 North 7th Street, F. R. Ross—Z4.
St. Louis—See Branch Office List.

Nebraska

Fremont 416—Fremont Union Transfer, 200 North H Street, D. C. Beach—Z4.
Grand Island 417—Nielsen & Petersen, 123 West Fourth—Z4.
Hastings 418—Fergus Transfer & Storage, 103 So. Denver Street, Geo. B. Fergus—Z4.
123. Lincoln 419—Lincoln Truck Terminal Co., 339 South 7th Street, George Burbach—Z4.
Norfolk 420—Union Tsfr. Co. of Norfolk, North of U. P. Depot, K. P. Blakeman—Z4.
Omaha—See Branch Office List.

New Hampshire

Concord 427—C. O. Bonner, Inc., 59 South Main Street, Henry Lupien—27.
Keene 430—H. L. White, 9 Pine Avenue—27.
Laconia 431—F. S. Willey & Co., Inc., 18 Pleasant Street, F. S. Willey—27.
Manchester 432—See Concord—27.
Portsmouth 434—Margeson's, 64 Vaughan Street, R. Clyde Margeson—27.

New Jersey

Asbury Park 439—Lowy's Express, Inc., 916 Langford Street, Charles Lowy—10.
Atlantic City 497—M. Potler & Sons Exp. & Stge. Whse., 113 North Connecticut Avenue, Max Potler—Z3.

Bergenfield 442—Hamilton Brothers, 13 Main Street—10.
Clifton 451—See Passaic—10.
Hackettstown 499—R. D. LaRue & Son, 428 Sharp Street, Harry LaRue—24.
Long Branch 467—See Asbury Park—10.
Millville 500—Young's Express, 1100 South 2nd, John Young—Z3.
Moorestown 471—Earl J. Cline, 51 East Second Street—9.
New Brunswick 473—Donomore Moving & Stge., 75 Patterson Street, James H. Wade—10.
Newton 498—Sussex County Express, 119 Water Street, Roy D. Benson—Z3.
Newark—See Branch Office List.
Oaklyn 476—Arthur's Storage Co., 1024 Market Street, Camden, N. J., Robert L. Arthur—9.
Passaic 478—Dave Levine, Inc., 354 Monroe Street, Dave Levine—10.
Paterson 479—See Passaic—10.
Perth Amboy, 480—M. Borup & Sons, 502 Compton Avenue, C. Borup—10.
Phillipsburg, 481—Reilley's Auto Transfer, 78 Jefferson Street, G. J. Reilley—24.
Red Bank, 485—Albert Burdge & Son, 125 Broad Street, Albert Burdge—10.

New York

Albany—See Branch Office List.
Binghamton, 511—Canny Trucking Co., 6-18 Spring Forest Ave., William Canny—Z3.
Buffalo—See Branch Office List.
Canandaigua, 515—Canandaigua Express Co., 150 Bemis Street, John V. Stedman—Z3.
Corning, 518—Herbert L. Wheeler, 104 West Pulteney St.—Z3.
Dunkirk, 523—Geo. C. Ludwig, 421 Robin Street—Z3.
Elmira, 525—Art Naglee Transportation, 208 Horseheads Blvd., Elmira Heights, N. Y., Arthur Naglee—Z3.
Endicott, 526—See Binghamton.
Geneva, 531—Geneva Mfg. & Storage, 142 Middle Street, C. A. Bissell—Z3.
Glens Falls, 533—Dewey's Van Service, 19-21 South Street, Nelson W. Dewey—93.
Hudson, 543—Grossman & Best, Inc., 710 Union Street, Leo B. Grossman—91.
Ithaca, 547—Student Transfer Company, 704 W. Buffalo Street, Leslie Tyler—Z3.

Jamestown, 548—Walde Peterson, Inc., 26 Willard Street, O. T. Johnson—Z3.
Johnson City, 549—See Binghamton—Z3.
Kingston, 552—Masten & Strubel, 742 Broadway, Roscoe A. Masten—Z3.
Middletown, 562—Harry Eaton, 116½ Linden—Z3.
Monticello, 603—Allen Bros., Inc., 89 St. John, Harry E. Allen—Z3.
Newburgh, 566—Weston Transfer Co., 64 Front Street, Ralph Weston—Z3.
125 Newark, 602—Ruffalo Trucking Service, Inc., Lyons Road, Frank Ruffalo—Z3.
New York—See Branch Office List.
Ogdensburg, 569—St. Lawrence Terminal, 116 Ford Avenue, Elton B. Young—Z3.
Olean, 570—Geise & Son, 261 N. Union St., Merle J. Geise—Z3.
Ossining—See Peekskill—8.
Peekskill, 577—A. D. Wightman, 1208 S. Division Ave.—8.
Port Jervis, 580—Ellwanger Truck Service, 6 Hudson Street, R. C. Ellwanger—Z3.
Poughkeepsie, 581—Floyd C. Roe, 9 Morton Street—Z3.
Rochester—See Branch Office List.
Rome, 585—Harold S. Hawkins, 508 Clinton Street—Z3.
Schenectady, 589—See Albany—91.
Syracuse—See Branch Office List.
Troy, 592—See Albany—91.
Utica, 593—Utica Carting, Storage & Contracting Co., 71 North Genessee St., Thomas Blando—Z3.
Warsaw, 596—Burns Motor Express, 31 Oatka Street, Harold S. Burns—Z3.

North Carolina

Asheville, 616—Union Transfer Co., 34 So. Lexington Ave., Stacey B. Walters—Z2.
Charlotte, 617—City Transit & Van Service, 1715 North Tryon St., J. K. Knowles, Mgr.—Z2.
Durham—See Raleigh—Z2.
Fayetteville, 620—M. M. Smith, 325 Hay Street—Z2.
Greensboro, 623—Tatum-Dalton, Inc., 311 East Washington, R. W. McNairy—Z2.
High Point, 624—High Point Bonded Whse., 911 West Broad Street, R. E. Snow—Z2.
Raleigh, 627—E. L. Stamey, 2107 Breeze Road—Z2.
Wilmington, 631—Murray Transfer Company, 416 North Front Street, Harry Gardner—Z2.

Winston-Salem, 632—Yarborough Transfer Co., 958 N. Liberty Street, B. L. Yarborough—Z2.

126 Ohio

Akron—See Branch Office List.
Alliance 644—Dale F. Lenz, 1505 Grace Street—Z3.
Ashland 645—Ashland Transfer & Stge Co., Commercial Avenue, George E. Lewis—Z3.
Ashley 646—Willis W. Murray, 107 South Street—Z3.
Ashtabula 647—W. B. Coleman, 2710 Lake Avenue, Carrie Bell—Z3.
Athens 648—Williams Transfer, 131 Grosvenor Street, L. M. Williams—Z3.
Bellefontaine 651—Frank E. Sims, 128 Washington Ave.—Z3.
Bucyrus 652—Bucyrus Transfer & Stge., James & Perry Street, Fred M. Knecht—Z3.
Cadiz 653—Bundy's Transfer, Rural No. 1, Route 250, Arthur H. Bundy—Z3.
Canton 656—(Refer Akron office), Schneider Whse. & Stge., Fifth St. & B. & O. R. R.—28.
Chillicothe 658—Russell B. Rihl, 715 East 4th St.—Z3.
Cincinnati—See Branch Office List.
Cleveland—See Branch Office List.
Columbus—See Branch Office List.
Coshocton 660—Dickerson Delivery, 131 Main Street, Dale Dickerson—Z3.
Dayton—See Branch Office List.
Delaware 662—Union Bus Station, No. 2 North Sandusky St.; W. C. McNew—Z3.
Dover 986—See New Philadelphia—Z3.
East Liverpool 664—East Liverpool-Pittsburgh Motor Freight Lines, 715 Bradshaw, A. T. Babb—Z3.
Elyria 663—Howard Wilson Moving, 331 West Ninth St., Howard Wilson—Z3.
Fremont 667—Neven I. Woleslagel, 344 Lynn Street—Z3.
Galion 668—Galion Transfer, 374 South Market St., F. J. Egner—Z3.
Gallipolis 669—Ed. L. Mills Transfer Co., 218 First Avenue, Ed. L. Mills—Z3.
Greenville 671—A. N. Thomas, 111 West Third St.—Z3.
Hamilton 672—City Transfer & Storage, Seventy & Maple Sts., W. L. Wick—Z3.
Harrisville 987—See Cadiz—Z3.
Hillsboro 988—Stroop's Van Service, 119 Southwest Street, John Stroop—Z3.

Ironton 673—See Ashland, Ky.—Z3.
Lancaster 675—Gaffney Transfer & Stge., (Rear) 309 N. M Pleasant—Ralph Gaffney—Z3.
Lima 676—Lima Truck & Storage Co., 139 East Wayne Street John A. Harley—Z3.
London 984—Geo. Killeen & Son, Inc., 128 South Main Street George Killeen—Z3.
Lorain 679—Kuntz & Joyce Transfer Co., 206 Eleventh Street, E. H. Joyce—Z3.
Mansfield 680—Buckeye Stge. & Tsfr. Co., 316 North Mulberry St., John H. Carew—Z3.
Marion 682—John C. Smith Moving Co., 532 Pearl Street, John C. Smith—Z3.
Middletown 686—Miami Terminal, Vine & Webster, R. M. Martindale—Z3.
Mt. Gilead 992—Harold McClellan, RFD #2—Z3.
Mt. Pleasant 989—See Gallipolis—Z3.
Mount Vernon 687—Mosholder Motor Freight, 929 West High Street, K. B. Mosholder—Z3.
Newark 688—J. J. Pfeffer Company, 42 Union Street—Z3.
New Philadelphia 689—Sanders Transfer Company, 148 Allen Lane, Southeast, G. W. Sanders—Z3.
Norwalk 994—Norwalk Truck Lines, 36 Woodlawn Avenue, Robert C. Boyd—Z3.
Painesville 690—Walter E. Makee, 999 North State St.—Z3.
Piqua 691—Morrow Transfer Company, 619 Broadway, C. Morrow—Z3.
Portsmouth 692—Warner-Wall Transfer Co., 12 Chillicothe Street, A. W. Mitchell—Z3.
Sandusky 694—Charles R. Carroll, 211 West Water Street—Z3.
Sidney 695—Bergman & Sons, 218 East Court St., George H. Bergman—Z3.
Springfield 696—Silver Motor Frt. Terminal, 1203 West Main Street, E. R. Kinkenhoker—Z3.
Steubenville 697—Steubenville Trsfr. & Stge., 146 South Commerce St., Mrs. D. H. Milburn—Z3.
Tiffin 698—C. W. Kerschner Trucking Co., 288 South Sandusky, C. W. Kerschner—Z3.
Toledo 699—The Sam Davis Company, 1510 Elm Street, Ira H. Davis—Z3.
Ulrichsville 708—See New Philadelphia—Z3.
Van Wert 701—C. C. Lenney Coal Co., 116 South Lynn, C. C. Lenney—Z3.
Wadsworth 702—H. J. Hall, 133 Broad St., T. C. O'Meara—Z3.
Warren 703—Warren Fuel & Supply Co., 470 South Street, S. E. J. M. Barbe—Z3.

Washington Court House 704—Thompson's Transfer Co., 153 South Hinde Street, H. L. Thompson—Z3.
Wooster 705—B & F Transfer Company, 1221 East Bowman Street, H. D. Franks—Z3.
Youngstown 707—John V. McNicholas, 360 West Commerce—Z3.
Zanesville 708—White Transportation Co., Franklin & Underwood, D. M. Smock—Z3.

Oklahoma

Ardmore 710—Keeter's Transfer Co., 823 Second St., N. W., W. L. Keeter—Z1.
Blackwell 712—Pioneer Truck Line, 203 South Main St., G. P. Zwink—Z1.
Duncan 715—O. K. Transfer & Stge. Co., 908 Walnut Street, Max Holzbeierlein—Z1.
Lawton 717—O. K. Transfer & Stge. Co., 615 D Avenue, A. H. White—Z1.
Muskogee 720—O. K. Transfer & Stge. Co., 17 West Okmulgee Avenue, B. R. Burcham—Z1.
Norman 721—Thompson's Transfer Co., 217 East Gray Street, R. A. Thompson—Z1.
Oklahoma City 722—John Berkley, 925 N. W. Sixth St., Tel.: 7-0838—Z1.
Tulsa 728—Aldridge Van & Storage, 1810 East Jasper, R. C. Aldridge—Z1.

Pennsylvania

Allentown—See Branch Office List.
Beaver Falls 734—C. A. Stoner, 2029 Seventh Ave.—Z3.
Bellefonte 737—See State College—Z3.
Bethlehem 738—Lazarus 20th Century Stge., 212 Northampton, G. H. Lazarus—Z3.
Bloomsburg 786—G. Leslie Miller, Millville Road—Z3.
Bradford 740—Sneath Carting Company, 154½ Main Street, G. T. Sneath—Z3.
Butler 741—Hindman Transfer Company, 245 East Jefferson St., G. Hindman—Z3.
Chambersburg 743—T. M. Zimmerman, 558 East Catherine—Z3.
Chester 744—Headley's Exp. & Stge., 335 East Fifth Street—15.
Doylestown 746—Fischer's Transfer Co., Mercer Avenue, H. Fischer—9.
DuBois 747—William Shaw, 343 So. Brady St.—Z3.
Easton 748—See Allentown—24.

Elwood City 749—King Transfer & Stge. Co., Beaver at 9th, H. L. King—Z3.
Erie 750—Rapid Transit Company, 1230 Sassafras Street, Earl B. Glover—Z3.
Farrell 751—See Youngstown, Ohio—Z3.
Franklin 752—S. A. Heath Tsfr. & Stge., 1237 Buffalo Street, J. A. Heath—Z3.
Grove City 755—David M. Reed, 225 Park—Z3.
Hanover 756—Hanover Transfer Company, 331 Terrace, R. I. Geiselman—24.
Harrisburg 757—Camp Curtin Transfer, 2440 Jefferson St., F. E. Kreider—Z3.
Hazleton 758—Daniel Berlitz, 300 East Green St., West Hazleton—24.
Johnstown 760—Alwine Moving & Stge. Co., 754 Short Street, Harry Alwine—Z3.
Lancaster 761—Keystone Express & Stge. Co., 531 N. Mulberry St., George F. Hostetter—24.
Lebanon 762—Harvey Steckbeck, 206 North Eighth St., Otto Steckbeck—24.
Meadville 763—F. A. Bossard & Son, 596 Arch Street, F. A. Bossard—Z3.
New Castle 764—Frank Wimer, 214 Florence Avenue—Z3.
Norristown 765—Elmer F. Espenship, Water & Lafayette Sts.—9.
Northumberland 785—Mertz Transfer Co., 367 Front, Blair Mertz—Z3.
Oil City 766—See Franklin—Z3.
130 Philadelphia—See Branch Office List.
Pittsburgh—See Branch Office List.
Pottstown 768—Harry E. Herpst, 121 King Street—Z3.
Pottsville 769—Paul A. Purcell, 400 Jefferson St.—24.
Punxsutawney 770—Elk Run Oil Company, Inc., 101 Pine Street, William Staley—Z3.
Reading 771—Kissinger Van & Stge., 35 South Eighth St., Carl Hart—24.
Scranton 772—William Land, Inc., 627 Lee Court, William Land—Z3.
Shamokin 773—D. J. Jones, 14 South Market St.—Z3.
Sharon 774—See Youngstown, Ohio—Z3.
State College 775—Shoemaker Brothers, 1006 West College St., J. C. Shoemaker—Z3.
Stroudsburg 777—Boushell Carrier Co., Inc., 112 Park Avenue, E. K. Boushell—24.
Sunbury 787—See Northumberland—Z3.
Uniontown 783—Ralph C. Fike, 334 Connellsville St.—3.

Waynesburg 779—Waynesburg-Pittsburgh Local, Express, D. Loughman—Z3.
Wilkes-Barre 781—Trexler Brothers, (Rear) 383 S. Main St., M. K. Trexler—24.
Williamsport 782—City Dray Lines, 369 5th Street, J. N. Rathmell—Z3.
York 784—James H. Wilson, 840 East Market St.—Z3.

Rhode Island

Newport 805—Richard W. Hall, 57 Bellevue Avenue—27.
Pawtucket 806—Conlon Warehouse, 134 Sterry Street, Joseph F. McMillan—27.
Providence—See Branch Office List.
Woonsocket 808—See Pawtucket—27.

South Carolina

Beaufort—See Charleston—Z2.
Charleston 813—J. J. Meeks, 110 St. Phillip Ave.—Z2.
Columbia—See Charleston—Z2.
Greenville 815—Greenville Motor Frt. Terminal, Buncombe Highway, Geo. M. Evans—Z2.
131 Orangeburg—See Charleston, S. C.—Z2.
Spartanburg 817—See Charleston, S. C.—Z2.

South Dakota

Huron 823—Ace Motor Cargo, 140 Dakota St., J. W. Crabb—Z4.
Pierre 824—Blue Line Transfer, 419 South Fort Street, K. V. Grebing—Z4.
Rapid City 825—See Huron—Z4.
Sioux Falls 826—Munce Bros. Transfer, 110 East Tenth St., W. J. Munce—Z4.

Tennessee

Bristol 831—Smith's Transfer, 10 Commonwealth Ave., Andy Smith—Z2.
Chattanooga 832—A B C Transfer & Stge., 1100 Carter Street, R. K. Smith—Z2.
Kingsport 836—Tom Still Transfer Co., 225 East Wanola St., Tom Still—Z2.
Knoxville 837—Wheeling Transfer Co., 1603 Washington Ave., A. L. Smith—Z2.
Memphis 838—Red Line Stge. & Tsfr., 171-175 North Main St., Charles Dattillo—Z2.

Nashville 839—The Price-Bass Company, 194-206 Hermitage Ave., J. O. Price—Z2.

Texas

Amarillo 844—American Warehouse & Stge. Co., 100 South Pierce St., Frank P. Allen—Z1.
Austin 845—Ricks Transfer Co., 411 East Fourth, W. T. Ricks—Z1.
Beaumont 846—Terminal Warehouse & Stge. Co., 1001 Pearl Street, Edward G. Edson, Jr.—Z1.
Dallas—See Branch Office List.
El Paso 857—Security Fireproof Stge., 224 North Campbell St., H. Howe, Jr.—Z1.
Fort Worth 858—Central Forwarding, Inc., 304 South Lake St., U. L. Shaw—Z1.
Galveston 859—See Houston—Z1.
Houston 862—Harris Moving & Storage, 2119 Winter Street, G. E. Harris, Jr.—Z1.
Kilgore 863—Bryan Tsfr. & Stge., 121 North Longview St., Vance Bryan—Z1.
132 Lubbock 882—Montgomery Transfer Co., 1110 25th Street, L. C. Montgomery—Z1.
Port Arthur 870—Port Arthur Tsfr. & Stge. Co., 1709 7th Street, F. G. Robichaux—Z1.
San Antonio 873—Redford Transfer & Stge., 330 Fredericksburg Road, S. O. Redford—Z1.
Sherman 875—Bramlet Tsfr. & Stge., 121 West Mulberry, R. E. Day—Z1.
Sweetwater 883—Gus Rigsby Tsfr. & Stge. Co., 114 Elm, Gus Rigsby—Z1.
Tyler 878—Francis Transfer Co., 417 West Wilson, J. F. Womack—Z1.
Wichita Falls 881—Wigington Transfer & Stge., 508 Ohio Avenue, W. B. Wigington—Z1.

Vermont

Bennington 891—See North Adams, Mass.—93.
Rutland 895—Gleason Trans. Co., 26 West Street, Martin L. Gleason—93.

Virginia

Alexandria 902—Smith Storage Company, 111 South Pitt Street, W. S. Smith—12.
Bristol 903—See Bristol, Tenn.—Z2.

Charlottesville 904—Settle's Van & Frt. Service, Fry's Road, H. L. Settle—Z2.
Danville 905—W. N. Baisey, 814 Jefferson St.—Z2.
Fredericksburg 906—R. G. Hilldrup, 509 Williams St.—Z2.
Harrisonburg 907—R. S. Dwyer, 60 Broad Street—Z2.
Newport News 910—Newport News Transfer, 215 Twenty-third St., J. W. Gunter—Z2.
Petersburg 912—Sheffield Stge. Co., 219 Bollingsbrook St., L. Sheffield—Z2.
Richmond 914—W. G. Cosby Tsfr. Co., 1326 East Main St., R. O. Cosby—Z2.
Roanoke 915—Ferguson Tsfr. Co., 113 Church Ave., S. E., J. H. Ferguson—Z2.
Staunton 916—Guss Dull Tsfr. Company, 32 West Johnson Street, Guss Dull—Z2.

West Virginia

Bluefield 925—Evans Line, Inc., 240 Bluefield Avenue, R. M. Evans—Z2.
133 Charleston 926—Capitol Transfer Co., 5 Washington St. East, C. C. Jordan—Z2.
Clarksburg 927—Evans Transfer Co., 134 School Street, E. W. Evans—Z2.
Elkins 938—C. F. Hinchman Transfer, Box 335, C. F. Hinchman—Z2.
Logan 937—John Bush Transfer, Box 911, John Bush, Jr.—Z2.
Martinsburg 931—Henry S. Whittington, 218 North High Street—Z2.
Morgantown 932—Dime Delivery, 72 West Park Avenue, M. J. Squires—Z2.
Parkersburg 934—Citizen's Tsfr. & Stge. Co., 606-616 Green Street, Paul H. Keenan—Z2.
Point Pleasant—See Gallipolis, Ohio—Z2.

Wisconsin

Alma 995—Alma Truck Lines, L. O. Miller—Z4.
Antigo 941—Brigg's Transfer Line, 211 East Fifth Avenue, R. R. Briggs—Z4.
Appleton 942—Muenster Van Service, 312 East North Street, H. Muenster—Z4.
Ashland 978—City Truck & Van Line, 209 Ellis, R. L. Fromholz—Z4.
Baraboo 943—Bisch Transfer Co., Route #4, Clinton Getschman—Z4.

Beaver Dam 944—Beaver Distributing Co., 228 Front Street, S. A. Piszizek—Z4.
Beloit 945—Hart's Transfer Company, 328 Broad Street, C. H. Hart—Z4.
Chippewa Falls 946—See Eau Claire—Z4.
Eau Claire 947—Schumacher Motor Express, 807 No. Oxford Ave., W. Schumacher—Z4.
Fond du Lac 948—Julka Freight Line, 221 Lewis St., Joe Julka—Z4.
Fort Atkinson 949—Fort Trans. & Service Co., 15 South 3rd, East, Alfred Brickson—Z4.
Green Bay 950—Bin's Transfer, Inc., 445 Jackson St., S., A. J. Schneider—Z4.
Kenosha 952—George A. Bohm & Sons, 1609 Fifty-fourth St., George A. Bohm—Z4.
La Crosse 953—Service Tsfr. & Stge., 3rd & Cass, G. Krebs—Z4.
134 Madison 954—H. E. Reynolds Tsfr. Lines, 725 East Mifflin St., H. E. Reynolds—Z4.
Manitowoc 955—Pech's Transfer Company, 736 North Twelfth St., G. W. Pech—Z4.
Marinette 956—Pinegar's Transfer Co., 2107 Maple Street, Geo. Pinegar—Z4.
Marshfield 957—Smith & Sons, 104 South Ville, Ed. S. Smith—Z4.
Medford 958—Neuendorf Trans. Co., Box 177, C. J. Neuendorf—Z4.
Menasha 959—Chick Remick Tsfr. Line & Stge., 411 Garfield Avenue, Lyle N. Remick—Z4.
Menominee 960—See Marinette—Z4.
Merrill 961—Trego Transfer, 206 Douglas, Beryl Block—Z4.
Milwaukee—See Branch Office List.
Monroe 962—Geo. D. Grant Tsfr. Co., 1408 11th Street, Geo. D. Grant—Z4.
Neenah 963—See Menasha—Z4.
Oshkosh 964—Pazen Transfer Line, 212 Cherry Avenue, H. E. —Pazen—Z4.
Park Falls 965—Flambeau Freight Lines, 125 South 5th Avenue, J. N. Saunders—Z4.
Racine 966—Merchant's Delivery, 1215 State Street, E. W. Eastman—Z4.
Rhinelander 967—Brusoe Transfer Co., Pioneer Street, Gordon Brusoe—Z4.
Ripon 968—C. Kuehn Transfer Line, Ransom Street, C. Kuehn—Z4.
Sheboygan 970—Chair City Motor Exp. Co., 11th & Illinois, E. A. Becker—Z4.

Stevens Point 971—Becker Transfer Co., 119 Clark Street, G. C. Becker—Z4.
Washburn 980—See Ashland, Wis.—Z4.
Watertown 974—Wolf Truck Lines, 207 North Third St., M. J. Wolf—Z4.
Wausau 975—Pope Bros. Red Top Cab Corp., 105 Prospect, F. H. Seefeldt—Z4.
West Bend 976—Richard Krueger, 258 Tenth Avenue—Z4.
Wisconsin Rapids 977—Gross Bros., 660 West Grand, L. L. Gross—Z4.

135 April 2, 1942

SUPPLEMENT NO. 1 TO AGENCY AND BRANCH OFFICE LIST DATED MARCH 15, 1942

To: General Office, Branch Offices, Agents, Field Representatives, Truckmen:

Please make the following additions, corrections, changes, and cancelations at once.

Additions—Agents

Illinois:
Belleville 160—Triangle Whse. & Mvg. Co., 212 East B St., R. N. Sprague—Z4.
Galesburg 119—Moore's Transfer, 1055 Grand Ave., G. K. Moore—Z4.

Iowa:
Newton 249—Merchant's Transfer, 105 E. 3rd St., South, L. R. Weldon—Z4.
Oskaloosa 243—Oskaloosa Bus & Tsfr., 106 2nd Ave. E., F. N. Cowan—Z4.

Missouri: Sedalia 410—Van Dyck Truck Lines, 309 W. Main St., Frank B. VanDyke—Z4.

New Jersey: Perth Amboy 480—M. Borup & Sons, 502 Compton Ave., Mr. M. Borup—10.

Texas:
Denton 884—Central Forwarding, Inc., 531 Hickory St.—Z1.
Gainesville 885—Central Forwarding, Inc., 105 West Broadway—Z1.
Wichita Falls 881—Central Forwarding, Inc., 1107 Indiana St.—Z1.

Additions—Warehouse Subagents

Nebraska: Omaha—Stoner Van & Storage Co., 2117 Cuming Street.
New York: New York—Edward Bly Storage, 4555 60th St., Woodside, L. I., N. Y.

Change of Address

Connecticut: Bridgeport—Wm. B. Meyer, 382 Stratford Ave.
Florida: Jacksonville—Fred G. Jones, Jr., 410 Hildebrandt Bldg.
Indiana:
Bloomington—Elgar & Bennett, 316 W. 3rd St.
Fort Wayne—Klinger Trucking Co., 2718 Sherman.
Ohio:
Columbus—Kutschbach-McNally Company, 127 East Goodale St., Columbus.
Cleveland—Greyvan Lines, Inc., 2036 East Twenty-second.
Portsmouth—Warner-Wall Transfer Co.; Front & Gay St.
Oklahoma: Oklahoma City—John Berkley, 435 Southwest 10th St.
South Carolina: Charleston—J. J. Meeks—Home Address: 110 St. Phillip St. Office Address: 58 State Street.
Texas: Dallas—Greyvan Lines, Inc., 2507 Pacific Avenue.

Cancelations—Agents—Remove from list

Florida: Sarasota—Edward Breault, 343 West 8th St.
Kansas: Emporia—L. A. Searcy Tsfr. Co., 23 West 5th St.
New York: Warsaw—Burns Motor Express, 31 Oatka St.
Oklahoma: Muskogee—O. K. Transfer & Storage Co., 17 W. Okmulgee Ave.
Texas: Wichita Falls—Wigington Tsfr. & Stge., 508 Ohio St.

136 Cancelations—Warehouse Subagents—Remove from list

Connecticut: Hartford—Charter Oak Trucking Co., 161 Front St.
Massachusetts: Boston—Howard Stge. Warehouse Company, 6 Howard St.
Minnesota: Minneapolis—United Warehouse Corp., 708 South Third.
New York:
Buffalo—E. F. Daly, Inc., 65 Purdy Street.
New York—Mt. Pleasant Stge. & Whse., Pleasantville, N. Y.
New York—Murphy Storage Warehouse Co., Great Neck, L. I.

Changes—Miscellaneous

Massachusetts: Boston—Telephone number is Hancock 0944.
Nebraska: Fremont—Name of individual: George Pedertz."
Ohio: Portsmouth—Name of individual: A. M. Mitchell.

GREYVAN LINES, INC.,
General Office, Chicago, Ill.

137 April 18, 1942

SUPPLEMENT NO. 2 TO AGENCY AND BRANCH OFFICE LIST
DATED MARCH 15, 1942

To: *General Office, Branch Offices, Agents, Field Representatives, Truckmen*:

Please make the following additions, corrections, changes and cancellations at once.

Additions—Agents—Add to list.

Florida:
Palm Beach 84—Rines Transfer Co., 231 Royal Poncianna Way, Geo. H. Rines, Jr.—Z2.
W. Palm Beach 81—See Palm Beach, Florida.
Illinois: Bloomington 102—Schroeder Tsfr. Co., 404-406 So. Main St., F. P. Schroeder—Z4.
Iowa: Sioux City 245—Propeck's Tsfr., 309 Water St., C. E. Propeck—Z4.
Kansas:
Hutchinson 258—Merchant's Tsfr. & Stge. Co., 19 W. First St., G. W. VanNattan—Z4.
Manhattan 261—Morgan Transfer, 611 Vattier St., Geo. B. Morgan—Z4.
Topeka 266—Anderson Tsfr. Co., 322 West 7th St., Chester W. Anderson—Z4.
Missouri: Springfield 411—R & E Tsfr. Co., 450 W. Poplar, Ralph R. Tisher—Z4.
New Jersey: Trenton 490—Pierce Van Lines, 800 Franklin St., J. P. Pierce—Z3.
South Carolina:
Greenville 815—C. J. Moody, 1010 Woodside Ave., W. Greenville, S. C.—Z2.
Sumter 818—Parrish Dray Lines, 106 Dingle St., S. M. Farabow—Z2.

Change of Address

Illinois: Chicago—Chicago Local Sales Office, 1140 S. Michigan Ave. Telephone: Victory 7400. The address of the General Office remains 1338 S. Michigan. The telephone number is the same for both Chicago Local and General.
Louisiana: New Orleans—303 Carondelet Building.
South Carolina: Charleston—J. J. Meeks; Office, Address 58 State St., Home: 110 St. Phillip.
Texas: Dallas—2507 Pacific Ave., Tel.: Taylor 9213.

Cancellations—Agents—Remove from List.

Florida: Sarasota—Edw. Breault, 343 W. 8th St.
Louisiana: Shreveport—Central Storage & Transfer, 700 Commerce St.
Nebraska: Lincoln—Lincoln Truck Terminal Co., 339 So. 7th St.
South Carolina: Greenville—Greenville Motor Frt. Terminal.

Changes—Miscellaneous

Massachusetts: Springfield—Telephone number, should be 4-1375.
Missouri: Sedalia—Name should be Van Dyke Truck Lines.
Texas: Denton—Name of Individual: L. D. Yerby.
Gainesville—Name of individual: W. J. Howard.
Wichita Falls—Name of individual: M. T. Gholson.

Addition—Warehouse Subagent—Add to List

Missouri: St. Louis—Arrow Moving and Storage Company, 1395 Hamilton Ave.

GREYVAN LINES, INC.,
General Office, Chicago, Illinois.

139 *Government Exhibit 4*

This Agreement made and entered into by and between Greyvan Lines, Inc., an Indiana Corporation, hereinafter referred to as the "Company," party of the first part, and the Van Drivers', Chauffeurs' Piano, Furniture Movers', and Helpers' Union, Local #711 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, an affiliate of the American Federation of Labor, hereinafter referred to as the "Union," party of the second part:

Movers—(Cont'd)

ALLIED VAN LINES

"World's largest long-distance movers." Van, rail, or water. Over 800 Warehouse Agent-Members in all principal cities. Standard rates filed with Interstate Commerce Commission.

NATION WIDE MOVING

"WHERE TO BUY IT"

DISTRICT OFFICE

Allied Van Lines Inc
1018 S Wabash HAR 1st 2404

ALLIED VAN LINES INC
1018 S Wabash st HAR 1st-2404
(See Advertisement Page)

AMERICAN RED BALL TRANSIT CO INC
155 N Clark STA 1st-7224
(See Advertisement Page)

AMERICAN VAN LINES INC

Long Distance Moving
LICENSED & INSURED
Temporary Storage
in Fireproof Warehouse
Free Estimates - Phone Day or Nite
6055 S Wentworth Av ENG Inter-1121

American Van Lines Inc
6055 S Wentworth ENG Inter-1122

CHSTADTER STORAGE & VAN CO
7315 S Cottage Grove Av TRI Inter-6060

Anaconda Van Lines
2745 N Elspetn WEL Inter-7717

ANDERSON A

Reliable - Reasonable - Responsible
We Offer Nation-wide Long Distance Moving Service, Fully Insured at Reduced Rates. Full or Part Loads - Direct Delivery. No Crating
No Charge for Rates or Estimates
323 N Kilpatrick Av MAN afield-5422

ANDERSON BRO
Established 1894
945 BELMONT AVE.
3141 SHEFFIELD AVE.
LAKeview 0502 — WELlington 0014
AGENTS FOR GREY VAN LINES
LONG DISTANCE MOVING
945 W Belmont Av LAK eview-0502

LONG DISTANCE MOVING

Gov X-3

GREY VAN Lines

FILED
Gen'l Sess
FEB 2- 1944
AT ... O'CLOCK
ROY H. JOHNSON
CLERK

ANDERSON BROS.
2044 N Keeler av. BEL mont-6365
Anderson Bros 4756W Bunnyside PEN sacola-5700

ANDERSON BROS EXP & STORAGE CO
Household Removals and Storage
Established 1894
945 W Belmont Av. LAK eview-0507
8141 N Sheffield Av. WEL lington-0014

ANDERSON E R MOVING & STORAGE CO 7456 S Eberhart STE ven-1026

Anderson R & Son
Established 1924 Piano & Furniture Moving
4106 W Armitage av. ALB any-8974

Arnold Arthur
Piano Moving, Packing, Shipping, Storage
2643 W 38th LAF ayet-0571

ARDMORE MOVERS

ASSOCIATED INDEPENDENT MOVERS
3652 W Grand CAP itol-1161

ATLAS VAN LINES INC
582[illegible] Clark LON gbeb-9500
(See Advertisement Following Page)
Atlas Van Lines Inc
2251 S Vincennes ASE rden-6622

AUSTIN EXPRESS & STORAGE CO
5435 W Lake AUS tin-0005

AVAILABLE STORAGE & MOVING CO INC 7732 S Shore Island av SAG inaw-4700
(See Advertisement Page [illegible])

AVALON EXPRESS & VAN CO
8108 S Bennett av. REG ent-2828

B B MOVING & EXPRESSING CO
Modern Vans - Ample Padding
Special Equipment for Pianos
Prompt Reliable Service
624 E 43rd OAK land-0401

(Classification Continued Next Page)

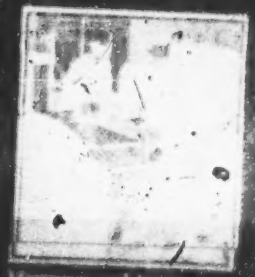
A NATIONAL ORGANIZATION

Over 500 Branch Offices and Sales Agents in 38 States

RATES SAME AS 2200 OTHER MOVERS

Modern vans, trained personnel and fine equipment are combined by Grevan to provide you with perfect moving service.

Ask for complete information and estimate, without obligation.



Mattresses and box springs covered to avoid soiling.

GREVAN LINES, INC.

VICtory 7400

Garments keep clean and fresh in Grevan Tent-O-Robes.

Runners and pads on rugs & carpets for protection.

Grevan standard process gives more protection to valuables.

Sales Office, 1140 S. Michigan Ave.

General Offices, 1338 S. Michigan Ave.

Article I

SECTION 1. The Company agrees that this agreement is made with the Union to cover only such members of the Union (herein referred to as "Truckmen" or "Truckman") that own and operate their own equipment, solely for Greyvan Lines, Inc., as motor haulers on the public highways throughout the United States and Canada, and shall in no way conflict with the wage agreement now in force between the Movers' Association of Chicago and the Union, and the parties hereto subscribe to the provisions of and definitions concerning unfair labor practices set forth in the Wagner National Labor Relations Act.

SECTION 2. The Company agrees, before entering into an agreement with any Truckman for the operation of his truck or equipment, that such Truckman must first become a member of the Union in good standing. It is further agreed that the Union reserves the right to reject the application of any person who, in its opinion, is not qualified to become a member of the Union. All agreements with truckmen must be in writing and filed in the General Office of Company.

SECTION 3. The Company agrees to cancel the Truckman's Agreement of any truckman coming under this agreement who is expelled or suspended by the Union, when notified of same by the Secretary-Treasurer of the Union.

SECTION 4. The present Truckman's Committee or members thereof appointed by an official of the Union shall continue to function and shall meet each month at the call of such Union officials to continue furtherance of present aims for the benefit of the Truckmen. At no time shall the Committee meet in the presence of the Company without at least one official of the Union being present.

Article II

SECTION 1. (a) It is agreed that there shall be a grievance Board composed of two representatives of Greyvan Lines, Inc., and two representatives of the Union to act on all grievances in connection with this agreement that cannot be settled by Greyvan Lines, Inc., and such members of the Union to the satisfaction of both. In the event such Grievance Board fails to reach a mutually satisfactory adjustment of any question or difference which may arise respecting compliance with the terms and conditions of this contract, then the two respresentatives of Greyvan Lines, Inc., and the two representatives of the Union, shall select a fifth member. Should the two representatives of Greyvan Lines, Inc., and the two representatives of the Union fail to agree upon

the selection of such a fifth member within 10 (ten) days, then such fifth member shall be selected by the President of the Company and by the President of the Union and the question or difference shall be finally arbitrated by such Grievance Board composed of five members.

140 *Article II*

SECTION 1. (b) This section shall not apply to direct violation of Union rules and regulations as provided in Article I, Section 3, but the Company, when notified as therein provided shall immediately notify the truckmen of cancellation. All other grievances under this agreement shall be subject to adjustment and determination by the Grievance Board. It is understood that the Grievance Board shall proceed to act upon matters submitted to it with all reasonable dispatch and promptness, and said Grievance Board shall have jurisdiction to settle such disputes provided said Grievance Board acts with dispatch and the grievance is settled promptly.

(c) Under no circumstances shall there be a strike or walk-out while the Grievance Board referred to herein shall be considering a matter referred to it for decision, providing such Grievance Board acts within thirty (30) days.

SECTION 2. The Company agrees to deduct the regular quarterly Union dues and assessments from the Truckman's gross income and remit the same to the Union. All due books must be sent to the Union office each quarter to be stamped and returned to the members. The Company agrees that any officer of the Union, or any representative authorized in writing, may, at any time, examine the Truckman's Agreement and account with the Company, and all papers and documents pertaining thereto.

SECTION 3. It is agreed that whenever helpers or drivers are hired by the Truckman, he shall employ members in good standing of Local Unions of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, who are duly qualified to perform such services, whenever they are available, and shall pay his said employees the prevailing rate of pay of such Local Unions. It is understood that such helpers or drivers are not the employees of the Company, but will be hired and paid by the Truckman and subject to his direction and control.

Article III

SECTION 1. The parties hereto agree that the services furnished to the Company by the Truckman under the Truckman's Agreement and entered into between the Truckman and the Company,

shall be compensated under the following Truckman's Rate Schedule, and all Truckman's Rate Schedules in said Truckman's Agreements shall conform thereto, and it is further agreed that said schedules will not be changed nor will any rule or regulation be adopted by the Company which will result in reducing the income of the Truckman as provided in the Truckman's Rate Schedule, without obtaining the written consent of the Union.

The Truckman's Rate Schedule is as follows:

141 This agreement shall take effect January 1, 1938, and continue in operation until December 31, 1938, and remain in operation from year to year thereafter unless either party shall give written notice to the other party to have the same modified, and such notice must be given at least sixty (60) days prior to the expiration of such agreement. If such notice is not given, then the agreement shall stand as renewed for the following year.

For Greyvan Lines, Inc.

GEO. J. WATSON,
President.
A. F. SCHERTZBERG,
Asst. Secretary.

For the Van Drivers', Chauffeurs, Piano, Furniture Movers, Packers and Helpers Union, Local #711, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

JAS. W. BRUCE,
President.
WM. O'BRIEN,
Secretary.

142

TRUCKMEN'S RATE SCHEDULE

Effective January 1, 1938

Schedule of Items Covered by Tariff

Item	Truckman's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments
1. Transportation service performed.	50% of tariff	52½% of tariff	52½% of tariff	52½% of bid price.
2. Accessorial charges when services performed.	70% of tariff	No provision	No provision	70% of bid price.
3. Terminal services performed:				
Divided shipments (More than one point of pick-up or delivery.)	50% of tariff	No provision	No provision	52½% of bid price.
Hoisting	Tariff	No provision	No provision	Bid price.
Piano carry	Tariff	No provision	No provision	Bid price.
Waiting time	50% of tariff	No provision	No provision	No provision.
Export and import	None	None	No provision	No provision.
Storage in transit (temporary).	None	None	None.	None.
Special Services (not named in tariff).	Tariff	No provision	No provision	Bid price.
4. Excess declared value	50% of tariff	52½% of tariff	52½% of tariff	No provision.
5. Special services:				
Storage Collection Charge for C. O. D	None	None	None	None.

143

Schedule of Additional Items

Item	Truckmen's income
6. Deadhead mileage (see Note 1). Note 1. Deadhead mileage is defined as the mileage traveled by the motor truck or trucks without carrying any shipment or portion thereof, to make such motor truck or trucks available for performing transportation services.	10¢ per mile for miles in excess of 25% of the total miles traveled in each calendar month, as determined by verified claim of truckmen. (See Rule 4).

	Truckmen's income			
	G. B. Holman current tariff	Greyvan tariff No. 2	Greyvan tariff No. 3	Government shipments bid price
7. Bonus (See Rule 6):				
(a) Satisfactory mechanical and physical maintenance	½ of 1%	½ of 1%	½ of 1%	½ of 1%
(b) Satisfactory service performed	1%	1%	1%	1%
(c) Satisfactory personal appearance and mental attitude	1%	1%	1%	1%
(d) Additional bonus	½ of 1%	½ of 1%	½ of 1%	½ of 1%

Rules Governing the Application of Above Rates

Rule 1. Shipments transferred: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the truckman's income of each truckman is computed shall be based on the proportion that the miles each truckman carried the shipment bears to the total miles of carriage. For purposes of equity the Company shall have the right to make adjustments in keeping with the facts and circumstances pertaining thereto and such adjustments shall be considered final. (See Rule 3.)

144 Rule 2. Left-over Portions of Shipments: The amount of the tariff transportation charges or of the Government bid price for transportation charges on which the Truckman's Income of the Truckman or Truckmen handling the left-over portion of shipment is computed, shall be based on the proportion that the cubic footage of the left-over portion of the shipment bears to the total cubic footage of the shipment involved; provided that, for purposes of equity, the Company shall have the right to make adjustments in keeping with the facts and circumstances pertaining thereto, such adjustments to be considered final; and provided further that in effecting any such adjustment, an amount of such transportation charges, not in excess of 5% thereof, may be deducted from the proportionate amount of such transportation charges allotted to the truckman handling the initial portion of such shipment and added to the proportionate amount allotted to the truckman or truckmen handling the left-over portion of the shipment.

Rule 3. Mileage: Wherever mileage is referred to, it will be computed in accordance with current G. B. Holman Mileage Guide.

Rule 4. Deadhead Mileage Allowance: The Truckman considering himself entitled to Income because of deadhead mileage (Item #6 above) in any month will, on or before the 10th day of the following month, submit written claim therefor to the Company on forms furnished by the Company. The amount of Truckman's income shall be subject to verification by the Company before making credit to his account.

Rule 5. Split Shipments: (a) A split shipment shall be defined as that portion of the shipment beyond the capacity of the van assigned, and as apportioned by the office, or reapportioned by the truckman involved.

(b) Transportation charges allotted to truckman for handling split load portion of shipment will be based on the proportion that the cubic footage of the split load proportions bear to the total cubic footage of shipment to be transported.

145 Rule 6. Bonus: Bonus earned under Item 7, a, b, and c, will be based on the transportation charges for shipments hauled in any calendar month and such earned bonus will be paid by a separate check each month at the same time the Truckman's monthly statement is issued.

The additional bonus of ½ of 1% of transportation charges set out under Item 7 d, will be paid to any truckman who has earned the maximum bonus of 2½% of transportation charges for any period of three consecutive calendar months. This bonus when

earned will be paid to the truckman at the same time as his monthly bonus is paid.

When the truckman has earned the additional bonus he will continue to receive the addifional bonus monthly until he fails to receive the maximum bonus in any calendar month.

When the truckman fails to earn the maximum monthly bonus of 2½% for any calendar month he must then earn the maximum bonus of 2½% for three consecutive calendar months before he becomes eligible for the additional ½ of 1% bonus.

146 VAN DRIVERS, CHAUFFEURS, PIANO, FURNITURE MOVERS AND PACKERS

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Local Union Number 711

CHICAGO, 5/14/38.

The following Articles shall become a part of the original Agreement effected January 1, 1938 signed between the Greyvan Lines, Inc., and the Van Drivers, Chauffeurs, Piano, Furniture Movers, Packers and Helpers Union Local # 711 of the I. B. of T.

1. When the Company hires Drivers to Drive Company Owned Trucks then the wages for Drivers shall be 75¢ per hour or $36.00 per week. No Driver to be paid less than 48 hours in any one week.

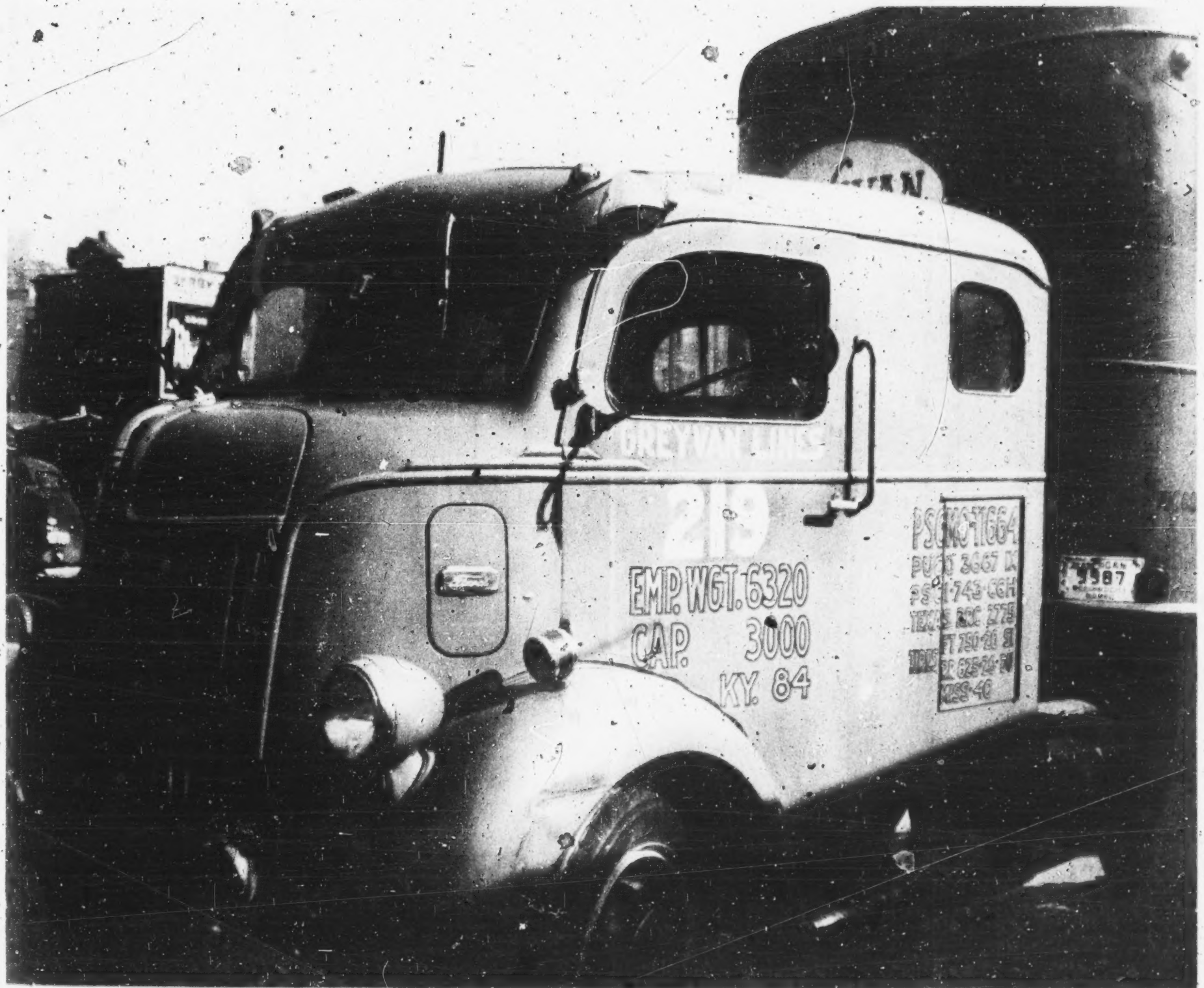
2. Expenses to be paid by the Company. Said expenses shall not exceed $3.00 per day.

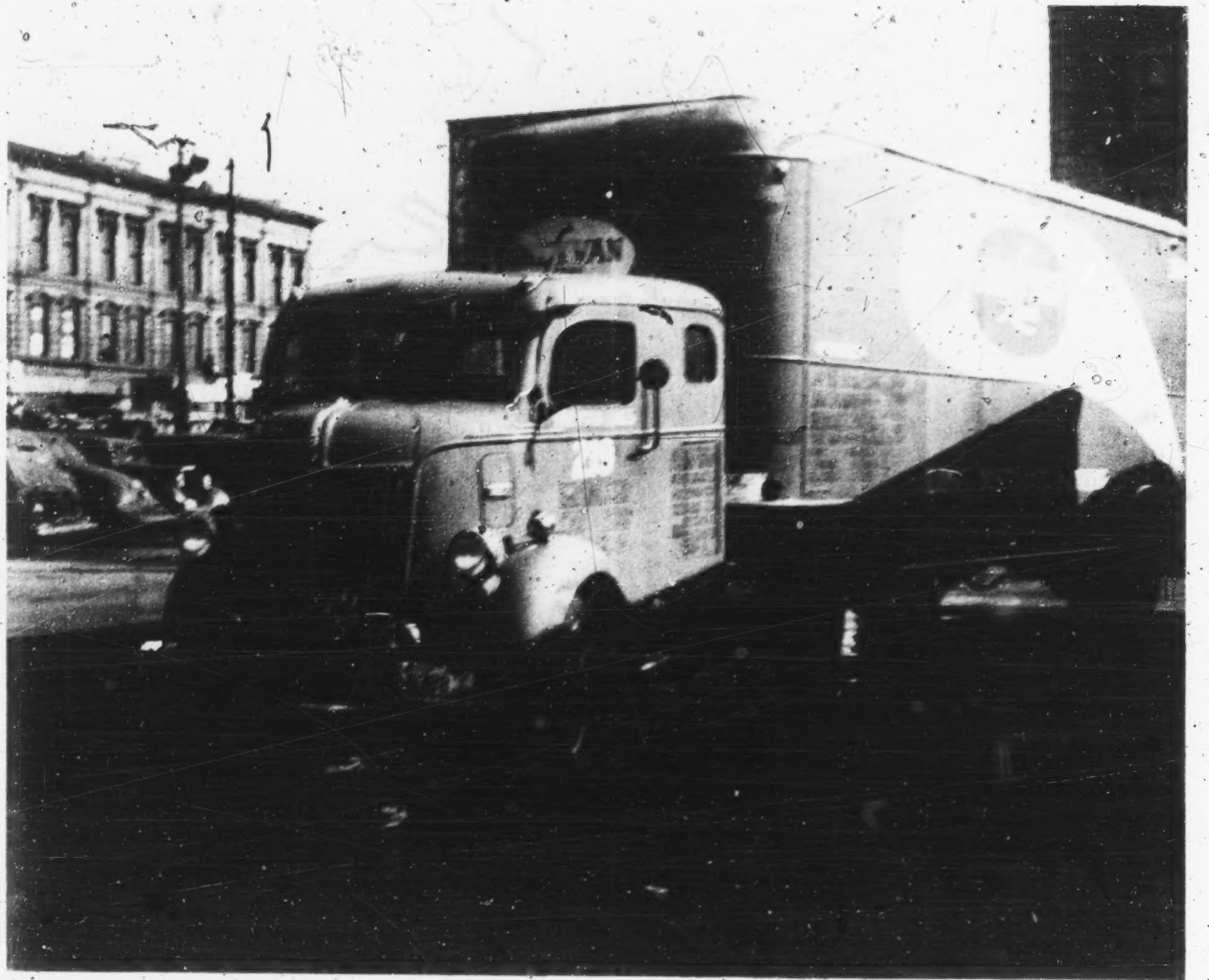
For the Greyvan Lines, Inc.

[redacted] O. WATSON, *Pres.*
A. F. SCHERTZBERG, *Asst. Secy.*

For the Van Drivers, Chauffeurs, Piano, Furniture Movers, Packers and Helpers Union Local # 711 I. B. T.

FRED L. MULEIT, *Pres.*
WM. J. O'BRIEN, *Secy. & Treas.*


EMP. WGT. 6320
CAP. 3000
KY. 84


MAN

149 *Government Exhibit 7*

GREYVAN LINES

PREVENTIVE MAINTENANCE INSPECTION AND ADJUSTMENT EVERY MONTH

Van No_____ Truckman_____ Location_____ Date____
Present mileage_____ Mileage and Date of last report____

√—If O.K.
X—Adjustments or repairs needed.
O—Adjustments or Repairs completed.

Test Vehicle for General Running Condition and Performance Including Brakes

Is oil changed systematically? Yes or no_____
Is motor kept clean on outside? Yes or no_____
Is vehicle properly greased? Yes or no_____
Is vehicle given proper attention? Yes or no_____

Engine

☐ ☐ Tighten cylinder head and cylinder block nuts.
☐ ☐ Clean and adjust spark plugs.
☐ ☐ Check fan belt adjustment and grease.
☐ ☐ Oil generator, starter and distributor, check charging rate and brushes.
☐ ☐ Clean and adjust distributor points and check timing.
☐ ☐ Tighten intake and exhaust manifold and check air leaks.
☐ ☐ Check valves for proper clearance and adjust.
☐ ☐ Inspect and clean inside of distributor head and ignition wires. (Replace wires if broken or grease soaked.)
☐ ☐ Check carburetor for gas leaks, tighten flange bolts.
☐ ☐ Check compression (with compression gauge) to determine condition of rings and valves. Show test Cyl. No. 1____ 2____ 3____ 4____ 5____ 6____ 7____ 8____
☐ ☐ Clean or renew oil filter and engine sump.
☐ ☐ Clean air filter, dip in oil, and replace.
☐ ☐ Clean fuel pump, sediment bulb. Indicate lbs. pressure_____
☐ ☐ Check choke control.
☐ ☐ Tighten motor support bolts.

Cooling system

- ☐ ☐ Inspect and tighten hose connections.
- ☐ ☐ Tighten water pump gland nut and check for proper greasing.
- ☐ ☐ Inspect cooling system for leaks and fill.
- ☐ ☐ Check radiator tie rods.
- ☐ ☐ Check radiator hold-down bolts.

Front end

- ☐ ☐ Test play in knuckle bolts and wheel bearings. (See wheels and brakes.)
- ☐ ☐ Test front wheels for correct caster, camber, and toe in.
- ☐ ☐ Inspect and tighten steering arms.
- ☐ ☐ Inspect and adjust tie-rod and drag link.
- ☐ ☐ Tighten spring clips, adjust shackles, and sound with hammer for broken leaves.

Steering

- ☐ ☐ Check steering housing to frame.
- ☐ ☐ Check pitman arm.
- ☐ ☐ Adjust for play in steering.

Rear end

- ☐ ☐ Inspect rear axle for backlash.
- ☐ ☐ Tighten axle shaft nuts and inspect for end play.
- ☐ ☐ Inspect for grease leaks.
- ☐ ☐ Tighten spring clips, adjust shackles, and sound out with hammer for broken leaves.
- ☐ ☐ Inspect radius rods.
- ☐ ☐ Inspect torque tube.
- ☐ ☐ Inspect propeller shaft.
- ☐ ☐ Inspect universal joints.

General

- ☐ ☐ Check clutch pedal clearance to toe-board.
- ☐ ☐ Check clutch for dragging and slipping. (Drain wash out and refill if wet type.)
- ☐ ☐ Test and focus head light.
- ☐ ☐ Test horn.
- ☐ ☐ Test windshield wiper.
- ☐ ☐ Test combination tail and stop light.

☐ ☐ Check all marker lights and reflectors (must comply with ICC requirements).
☐ ☐ Inspect and focus spot light shining on semi-trailer front oval.
☐ ☐ Check all directional lights and switch.
☐ ☐ Check battery, clean and tighten connections.
☐ ☐ Test instruments on dash.
☐ ☐ Inspect for gasoline and oil leaks—Cyl. base, timing-gear cover, lower crankcase, valve cover, engine cross shaft, and air compressor.
☐ ☐ Inspect exhaust and muffler for leaks and obstructed passage.
☐ ☐ Check all fuses and install extra fuses.
☐ ☐ Check transmission externally.
☐ ☐ Every 12,000 miles drain, flush out transmission; inspect gear teeth, and refill with suitable and seasonable lubricant.
☐ ☐ Check drive line bearing adjustment.
☐ ☐ Check gear shift lever and shifting.
☐ ☐ Check throttle controls.
☐ ☐ Check speedometer.
☐ ☐ Every 12,000 miles grease speedometer cable with graphite grease.
150 ☐ ☐ Check gasoline tanks for leaks and hold-down clamps.
☐ ☐ Check gasoline tank filler caps and shut-off values.
☐ ☐ Inspect windshield, oil locks, and hinges.
☐ ☐ Tighten all cab and body bolts.
☐ ☐ Check glass and replace broken with safety type.
☐ ☐ Check all window-control mechanism.
☐ ☐ Check all compartment and cab door latches.
☐ ☐ Check for loose panels, mouldings, and broken frame or sills.
☐ ☐ Check roof for leaks.
☐ ☐ Check for broken guard rails.
☐ ☐ Touch up all spots where paint is off.
☐ ☐ Recoat roof every six months.
☐ ☐ Check all body doors and tail gate.
☐ ☐ Inspect hood, fenders, aprons, and running boards.
☐ ☐ Inspect permit plates and holders.
☐ ☐ Inspect tail-gate chain.
☐ ☐ Check all tail load anchor loops or spindles.

Semitrailer

☐ ☐ Inspect fifth wheel for play or wear, grease thoroughly.
☐ ☐ Tighten all mounting clamps and bolts.
☐ ☐ Inspect fifth wheel pin for wear, and mounting.

☐ ☐ Check lighting wire connections between tractor and trailer (must be no loose wires).
☐ ☐ Check trailer axle for proper camber and alignment.
☐ ☐ Tighten trailer wheels, hubs, and hub caps.

Wheels and Brakes

☐ ☐ Tighten rim lugs; test for trueness.
☐ ☐ Check brake linkage for looseness.
☐ ☐ Check brake linings and adjustment.
☐ ☐ Check hydraulic and air lines for leaks.
☐ ☐ Check hydraulic master cylinder level, and/or air pressure at brake chambers.
☐ ☐ Every 12,000 miles disassemble front rear wheel bearings (also semitrailer wheels), clean and repack with seasonable bearing grease and readjust.

Tires

Tractor	Pressure Found	Inflated to—lbs	Size	Make	Condition
RF					
LF					
RRO					
RRI					
LRO					
LRI					

Semi	Pressure Found	Inflated to—lbs	Size	Make	Condition
RO					
RI					
LO					
LI					
Spare					
Tractor					
Spare					

Recommended Improvements—General Remarks

Driver's Signature_____

Inspector's Signature_____

151 *Government Exhibit 8*

GREYVAN LINES

PHYSICAL INSPECTION REPORT

Van No._____ Truckman_____ Location_____ Date_____
Is Van Clean?_____ Polished?_____ Inside of Van Clean?_____
Is Inside Cab Neat?_____ Equipment properly piled inside van?_____
Is Tool Compartment Neat?_____ Is Oil or Kerosene Evident in Compartments?_____
Are truckman's papers kept in proper containers?_____ Neat or otherwise?_____
Are Accident Report Cards in Holder Inside Cab?_____

Number of Pads_____	Clean or dirty_____	Torn_____	
Number of Chair Covers_____	Clean or dirty_____	Torn_____	
Number of Mattress Covers_____	Clean or dirty_____	Torn_____	
Number of Piano Covers_____	Clean or dirty_____	Torn_____	
Number of Tarpaulins_____	Clean or dirty_____	Torn_____	
Number of Piano Skids_____	Good or Broken_____		
Number of Dollies_____	Good or Broken_____		
Number of Pot Torches_____	Where Carried_____		
Number of Flares_____	Where Carried_____		Must Be Inside Cab, Instantly Available.
Number of Flags_____	Where Carried_____		Must Be Inside Cab, Instantly Available.
Number of Red Lanterns_____	Where Carried_____		
Number of Fire Extinguishers_____	Type_____ Full or Not_____		Must Be Inside Cab, Instantly Available.

Are small burlap pieces clean or dirty?_____
Are larger hop sacking pieces clean or dirty?_____
Check for following:

Seven ton hydraulic jack_____	Set skid chains_____
Set of tow chains_____	Spare new fuel pump_____
First aid kit_____	Spare new coil_____
Furniture repair material_____	Spare new condenser_____
Kit extra lamp bulbs_____	Spare new dist. points_____
Kit extra fuses_____	Heater for cab_____
Broom_____	Radio_____
Normal tools for road service_____	

Recommended Improvements—General Remarks

_____

_____

Are more than original license plate, ICC plate, and plate for state then in, showing on front or back?_____
Are license plates and permits not in use kept in safe containers?_____
Inspector's Signature_____

152 *Government's Exhibit 9*

INTERSTATE COMMERCE COMMISSION

WASHINGTON

I, W. P. Bartel, Secretary of the Interstate Commerce Commission, do hereby certify that the attached is true copy of application (exclusive of exhibits and other supporting data) on form B. M. C. 1, filed February 10, 1936, in Docket No. MC–14786,

Greyvan Lines, Inc., Common Carrier Application, the original of which is now on file and of record in the office of said Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 28th day of January, A. D. 1944.

W. P. BARTEL,
Secretary of the Interstate Commerce Commission.

---

154 *Government's Exhibit 10*

INTERSTATE COMMERCE COMMISSION

WASHINGTON

I, W. P. Bartel, Secretary of the Interstate Commerce Commission, do hereby certify that the attached is true copy of portion of Exhibit B–1–C of application on form BMC 1, filed February 10, 1936, in Docket No. MC–14786, Greyvan Lines, Inc., Common Carrier Application, the original of which is now on file and of record in the office of said Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 28th day of January, A. D. 1944.

W. P. BARTEL,
Secretary of the Interstate Commerce Commission.

---

157 *Government's Exhibit 12*

STENOGRAPHERS' MINUTES

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. MC–14786

Greyvan Lines, Inc., Common Carrier Application vs.

At Washington, D. C. Date October 25, 1939.

Form B. M. C. 1.

PROPERTY CARRIER APPLICATION

(Under "Grandfather" Clause)

(This form for use only by Common Carriers engaged in transportation of property in interstate or foreign commerce on June 1, 1935, and by Contract Carriers so engaged on July 1, 1935, and continuously thereafter)

(Before answering, read General Instructions on last page. Numbers under line refer to Special Instructions on that page)

BEFORE THE INTERSTATE COMMERCE COMMISSION

Application of Greyvan Lines, Inc. (Full and correct name) for a Certificate (Certificate or permit) to operate as a Common Carrier (Common carrier or contract carrier) of property, under the Motor Carrier Act, 1935. DOCKET NO. (Do not fill in)

APPLICATION

To the Interstate Commerce Commission, Washington, D. C.

APPLICANT STATES:

That full and correct name of applicant is Greyvan Lines, Incorporated

Business address 6545 Carnegie Ave. (Street and number) Cleveland (City) Cuyahoga (County) Ohio (State)

That applicant is a Corporation (1), doing business under the trade name or style of Greyvan Lines

That applicant, if a corporation, was organized under the laws of the State of Indiana, and that, if a partnership, the names and addresses of the partners are as follows:

Name	*State, City, and Street Address*

If an association, describe clearly its character

That the type of service furnished and the operations conducted by the applicant or predecessor in interest on June 1, 1935, were as shown in EXHIBIT A, and that no change has occurred therein since that date, except as shown in that exhibit.

That applicant submits as evidence in support of statements contained in EXHIBIT A, the information contained in EXHIBIT B.

That applicant will submit such additional information to substantiate the applicant's prayer herein as the Commission may require.

That applicant has complied with the order of the Commission relative to the service of application on interested parties as shown in EXHIBIT C.

WHEREFORE, The applicant herein prays: That the Commission issue a Certificate (Certificate or permit) to operate as a

Common Carrier (Common carrier or contract carrier) of Property-General Commodities and Household Goods (Class of traffic (commodities generally, with certain exceptions, or special commodities only)

and applicant further prays that if the facts herein contained show that applicant, although applying for a ...tificate (Certificate) (Permit) is entitled for a Permit (Permit) (Certificate) this application be considered to be one for the appropriate form of authority.

Dated this 28th day of January 1936

Greyvan Lines, Inc.
(Applicant)

By Geo. O. Watson Tit. Pres.

OATH

14786

STATE OF Ohio

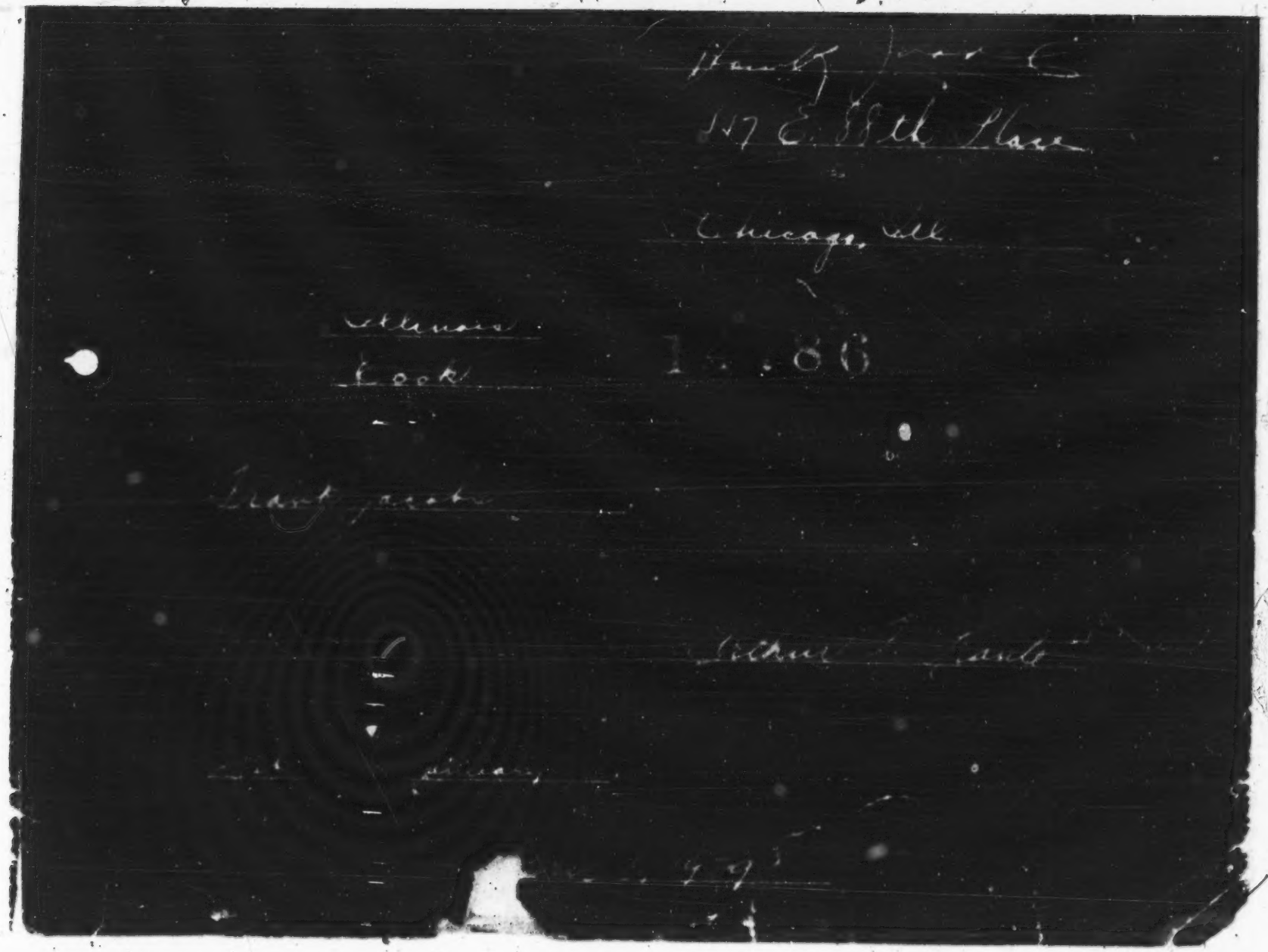
COUNTY OF Cuyahoga

Geo. O. Watson (Name of affiant) makes oath and says that he is the President (Title of affiant)

of the Greyvan Lines, Inc. (Name of applicant) that he is authorized on the part of said applicant to verify and file with the Interstate Commerce Commission this application, and that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof, that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

Subscribed and sworn to before me, a NOTARY PUBLIC in and for the State and County aforesaid, this 28th day of January 1936.

My commission expires ...


147 E. 88th Place
Chicago, Ill.
Illinois
Cook
1:86

158 BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. M. C. 14786

GREYVAN LINES, INC., COMMON CARRIER APPLICATION

HEARING ROOM "A,"
I. C. C. BUILDING,
Washington, D. C., Wednesday, October 25, 1939.

The above-entitled matter came on for oral argument before the Commission (Division No. 5) at 10 o'clock, A. M.

Present: Commrs. Lee (Presiding) and Rogers.

Appearances: Ivan Bowen, Rand Tower, Minneapolis, Minnesota, appearing for the Applicant.

Oscar Lindstrand, 652 Union Station Building, Chicago, Illinois, appearing for Rail Carriers in Central Freight Association and Southern Freight Association Territories.

160 PROCEEDINGS

Commr. LEE. The Commission will now hear argument number M. C. 14786, Greyvan Lines, Inc. Mr. Bowen, you have twenty minutes. Mr. Bowen.

Argument of Mr. Tvan Bowen

May it please the Commission, this is an application of Greyvan Lines, Inc., a corporation, for a common carrier certificate as a property carrier claiming grandfather's rights. A hearing was held on the application after an informal investigation and the Examiner's report has been entered recommending that an order be entered denying the certificate of this Applicant. The Application which has been filed is on the form of the Commission and has attached to it the exhibits showing the certificates or permits that this company has been operating under and through the various states that required certificates. It also has attached to it the opinion of the Commission of the State of Missouri in connection with the application that was made there back in 1933. It also has attached to it an exhibit showing the territory in which this company operated in the form of a map and the territory in which it claims its rights, showing the location of branch offices and of the agencies and the points between which goods had been hauled in a graphic form showing those points in various states. I will later comment on that exhibit. Then, also attached

161 to the exhibit is some 50 odd assignments for affidavits, assignments in the form of affidavits of so-called drivers-

owners in which they refer to the fact that they have been operating for Greyvan Lines under lease of their equipment or some period prior to the first day of June 1935 and up to the times that the affidavits were made which came down to the date of the filing of the application.

Now, the Examiner's report on page 3; "the application presents two questions, first whether Applicant was on June first, 1935 and continuously since has been engaged in the transportation of general commodities including household goods, and (2) whether the transportation was performed by Applicant or the owner of the vehicle used in the operation." On page 7 he comes to his conclusions and I will read those; "as indicated, the relationship of the owner-operators to Applicant Corporation under the terms of the various agreements cannot be determined with any degree of accuracy and therefore it is not possible to determine which party performed the transportation service. Whereas, a verified application in the testimony of Applicant's witnesses in support thereof constitute at least a prima facie case, a prima facie showing and a presumption of truth. Nevertheless these are both rebuttable." Right at that point I call the attention of the Division to the fact that there was no testimony introduced in opposition. "And where the record as a whole casts substantial doubt upon the verity and accuracy of this showing, and in
162 fact rebuts it, the burden is then upon Applicant to overcome this doubt." Apparently the Examiner proceeds on the basis that we introduced testimony ourselves that destroyed our prima facie case. "That burden is not met by such vague statements that were made by the witnesses for the Applicant standing alone. Here more convincing and concrete evidence is necessary such as documentary proof and corroboration of other witnesses or both, in the absence of these the Examiner is constrained to find that Applicant has failed to uphold the burden imposed upon it and has not established its right under the grandfather clause to certificate to continue the transportation of these commodities and the application should be denied." The opinion is short, the hearing was short, but the case before Your Honors is of importance. Greyvan Lines is as well known in the truck transportation field as a common carrier, and has been ever since 1929, as the Union Pacific Railroad or the New York Central Railroad as common carriers in the railroad field and it is a serious matter when such an organization that operates nation-wide having several hundred employees, is to be put out of business.

Commr. Lee. It is a serious matter when any carrier is put out of business, isn't it?

Mr. Bowen. That is right. Any carrier, I will certainly agree with that, or any other business man or employee. I think
163 possibly that this Examiner's report went off on the proposition of the driver-owner agreements which has to my mind been settled by the decision of this Commission in the Dixie, Ohio case. The form of the contracts which are before the Examiner and before the Commission meet all of the principles that are laid down in the Dixie, Ohio case as to control as to operating for the company, that there was no operation by the owner himself. They are operated under contracts or way bills that were in the name of the company. The company covered the damage, the company stood liable for all damages, cargo insurance and all of that matter. Now the two contracts that were before the Examiner were first, the contract that was presented by the informal—at the informal hearing. That contract to which he refers quite extensively, was the result of the hearing before the Missouri Commission in 1933 when there was a question before the Missouri Commission as to whether or not the form of contract under which we operated satisfied the right of Greyvan Lines, which then was Grey Hound Vans, later the corporate name was changed, to operate as a common carrier. That Commission, when we made an application for an interstate certificate in 1933 and it was contested by the railroads, held that the contract that we were then operating under did not satisfy that Commission that the Greyvan Lines was entitled to operate as a carrier. Subsequent to that holding we asked for a reopening of it. We had another hearing. We presented arguments. We presented
164 a new form of contract in order to meet and satisfy the request or the dictates of the Missouri Commission. The Missouri Commission then put the stamp of approval on that contract and issued us a certificate and their decision is appended as a part of the application. There is a certified copy of it attached to the application.

Commr. Rogers. Do these owner-drivers haul on their own account?

Mr. Bowen. Never, and by the contract they are absolutely excluded from it. It is ground for terminating their contract. Upon that Commission sitting there, and the Chairman was judge Collette who later became Supreme Court Justice in the State of Missouri and is now a United States District Judge in the State of Missouri. There was Judge Stahl, one of the most eminent attorneys in Missouri on that Commission, and Judge English, and they unanimously issued this certificate after passing upon that question. Now the other contract that is in evidence is the contract that was revised from that contract in 1938, I think it was,

or was it '37—1937. That came about as a result of labor negotiations. These men that were operating these vehicles as driver-owners were organized by the Teamsters' Union of the A. F. and L. and they came in and demanded certain revisions in the form of a contract and the result of that, Exhibit 7, which is in evidence is the contract that we operate under today dictated by the Teamsters' Union as the spokesman for the drivers, who, to all intents
165 and purposes as the relation of that is, is the employer-employee relationship.

Commr. LEE. Does the company have any vehicles of its own?

Mr. BOWEN. It does now. Originally—the record shows this—originally the company operated a vehicle of its own. It then went to the driver-owner type. Since the hearing or prior to the hearing, and since 1937 it has again gone back into the owner-operator. It owns now some vehicles and operates under driver-owners. Now the policy is to own vehicles.

Commr. LEE. On the grandfather date it did not?

Mr. BOWEN. It did not. The record shows it did not. It was operating entirely under driver-owner vehicles.

Now this record itself, or the Examiner's report substantiates the fact that this company was in operation. On page 2 of the Examiner's report, "Applicant operated continuously since 1929 to the extent hereinafter indicated. Its operations were conducted under its corporate name and under the trade name of Greyvan Lines." And then again it says; "an analysis of the exhibit indicates that general commodities including household goods were transported with some regularity between various states during the period prior to June first 1935. But it is impossible to determine from these exhibits whether the transportation was performed by Applicant as a common carrier or by the so-called agents, as common carriers.

Commr. ROGERS. Have any of these so-called owner-
166 drivers filed application with us in their own right?

Mr. BOWEN. I have only knowledge of one and it was denied by the Examiner in the report on the grounds that he was the carrier.

169 *Government's Exhibit 13*

BEFORE THE INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C.

Docket No. MC 14786

IN THE MATTER OF THE APPLICATION OF GREYVAN LINES, INC., FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER OF PROPERTY UNDER THE CARRIER ACT, 1935

EXCEPTIONS OF APPLICANT TO RECOMMENDED REPORT AND ORDER

IVAN BOWEN,
Attorney for Applicant,
1650 Rand Tower, Minneapolis, Minn.

MINNEAPOLIS, MINN., *April 21st, 1939.*

170 BEFORE THE INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C.

Docket No. MC 14786

IN THE MATTER OF THE APPLICATION OF GREYVAN LINES, INC.

EXCEPTIONS OF APPLICANT TO RECOMMENDED REPORT AND ORDER

Comes now Greyvan Lines, Inc., applicant herein, and respectfully excepts to the report and order recommended by the Examiner herein on the ground that said recommended report and order are erroneous and unlawful for the reasons, to wit:

* * * * * *

172 STATEMENT OF EVIDENCE

Applicant was prior to June 1st, 1935, and ever since has been engaged in the transportation of property in interstate and foreign commerce as a common carrier over irregular routes within the territory of the United States generally described as east of the States of Montana, Wyoming, Utah, and Arizona, and including movements to and from the State of California and the Dominion of Canada. (Transcript, pp. 13, 14, 49; Exhibit B-I. C. C., Vol. I; Transcript, p. 37.)

Applicant was operating in more states prior to June 1st, 1935, than request was made at the hearing to operate in. (Transcript, p. 14.)

Applicant was registered and operating under the Code
173 of Fair Competition for the Trucking Industry. (Transcript, pp. 14, 15, 16.)

Applicant operated both its own vehicles and driver-owner vehicles (devoted exclusively to applicant's business) at times both prior to and subsequent to June 1st, 1935. (Transcript, pp. 22, 23, 24, 32, 33, 42, 49, 50.)

It carried goods under a company tariff prior to the time of filing of tariffs pursuant to Motor Carrier Act, 1935 (Exhibit 5, Transcript, p. 16) and under MF I. C. C. tariffs subsequent thereto. (Transcript, pp. 17, 18, 52, 54.)

The applicant maintained offices and agents in the various states as shown on Exhibit B–I. C. C. attached to the application. (Transcript, p. 37.)

It employed solicitors. (Transcript, p. 41.)

The applicant had in its own name authorizations as required by various states for its operations. (Transcript, p. 57.)

The applicant paid State permit fees, port of entry charges, mileage taxes, and all license taxes for the vehicles operated by driver-owners, except the original plate tax of the owner's domicile. (Transcript, p. 53.)

The applicant company assumed responsibility for damage caused by the operation of its vehicles and carried liability and property damage and cargo insurance for the protection of the public. (Transcript, pp. 19, 25, 56; Ex. Rept., Sheet 5.)

The applicant has complied with rules and regulations for the appointment of agents for service of process. (Transcript, p. 19.)

Applicant was engaged in business as a common carrier of property as specified in its tariffs over irregular routes prior to June 1st, 1935, and has since so continuously conducted its business. (Vol. I, MC 14786, Transcript, pp. 56, 57; Exhibits
174 1 and 2, Transcript, pp. 16, 38; Transcript, pp. 18, 19, 20, 24, 30, 31, 40, 41, 45, 47, 48, 49, 52, 53, 54.)

ISSUES

The issues presented here are:

I

Is the applicant a common carrier of property in interstate and foreign commerce over irregular routes under Section 203 (a) (14) and Section 206 (a), Motor Carrier Act, 1935?

II

Was the applicant engaged in operation as such common carrier prior to and on June 1st, 1935, and been so continuously operating since?

III

Is applicant entitled to a certificate of public convenience and necessity as a common carrier of property over irregular routes and within the territory applied for under Section 206 (a) of the Act?

The examiner states the issues in his report as follows: "The application presents two questions—(1) whether applicant was, on June 1st, 1935, and continuously since has been engaged in the transportation of general commodities, including household goods, and (2) whether the transportation was performed by applicant or the owner of the vehicles used in the operation." (Sheet 3.)

175 ARGUMENT

* * * * *

176 State permit, mileage and other operating taxes were paid by the company and permits or other operating authority obtained and held in the name of the company. (Transcript, pp. 53, 57; Ex. Rept., Sheet 3).

The report of the Examiner is erroneous in indicating that the "original certificate" tax was not paid by the company, if his reference is made to operating authority taxes. (Sheet 4.) It was the original license plate tax of the vehicle in the home state of the driver-owner that was paid by the "individual owner." (Transcript, pp. 54, 55.)

The company carried public liability and property damage insurance and paid the premiums. (Transcript, p. 56.)

The applicant operated with both its own equipment and driver-owned equipment (devoted to the exclusive service of the company and under the company's trade name) at times prior to and subsequent to the grandfather date. (Transcript, pp. 49, 50; Ex. Rept., Sheet 2.) The testimony shows that there was a period between about 1932 and 1938 when the company operated only "driver-owner" equipment. (Transcript, pp. 49, 50.) This

177 "driver-owner" equipment was operated under the full management and control of the company, and together with the owner was subject to all orders of the company's representatives and agents. (Ex. Rept., Sheet 5.)

The Motor Carrier Act defines a common carrier as follows:

"SECTION 203 (a) (14). The term 'common carrier' by motor vehicle means any person who or which undertakes whether directly or by lease or any other arrangement, to transport passengers or property or any class or classes of property, or the general public in interstate or foreign commerce by a motor vehicle for compensation, whether over regular or irregular routes,"

Regardless of whether the equipment used was owned by the company or by the driver, the evidence proved a common carrier operation. The report of the Examiner states that the evidence demonstrates: "that general commodities, including household goods, were transported, with some regularity between various states during the period prior to June 1st, 1935," but he states that "it is impossible to determine from the exhibits whether the transportation was performed by applicant as a common carrier or by the so-called 'agents' as common carriers." (Ex. Rept., Sheet 7.)

There is no evidence in the record from which it could be concluded that the "agents" were common carriers, or had any contractual relation with the shipper whatsoever. The deduction that the agent could be the carrier has no basis whatsoever either in law or in fact. Such being the state of the record, the Examiner's findings referred to must result in the conclusion that the applicant was a common carrier prior to June 1st, 1935.

The removal of any doubt that could have been indulged in as to the applicant being the carrier is evidenced by the assignment by the agents to the applicant of any rights that they may
178 have had and which were attached to the application introduced in evidence.

The practice of carriers operating with vehicles and facilities other than those to which the carrier held title was well known and understood by the Committees of Congress considering the passage of the Motor Carrier Act, and the legislation was careful to protect the operating rights of such carriers. The intent is shown not only by the definition of "carriers" in Section 203 (a) but also in sub-Section 19 thereof, providing:

"The 'services' and 'transportation' to which this part applies include all vehicles operated by, for, or in the interest of any motor carriers irrespective of ownership or of contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or property in interstate or foreign commerce or in the performance of any service in connection therewith."

180 *Government's Exhibit 14*

INTERSTATE COMMERCE COMMISSION

No. MC–14786

GREYVAN LINES, INC., COMMON CARRIER APPLICATION

Submitted May 2, 1941. Decided March 17, 1942

1. Applicant found entitled to continue operations as a common carrier by motor vehicle of (1) household goods, (2) cash registers and parts therefor and adding and computing machines, and (3) bakery equipment, dishwashers, scales and parts therefor, and food-mixing and cutting machines, between specified points in the United States, over irregular routes, by reason of having been engaged in such oeprations on June 1, 1935, and continuously since.

2. Public convenience and necessity found to require operation by applicant as a common carrier by motor vehicle of specified commodities, from points in Alabama to Dayton, Ohio, over irregular routes.

3. Issuance of a certificate approved upon compliance by applicant with certain conditions and after lapse of 30 days allowed for the filing of petitions with respect to certain specified commodities, and application in all other respects denied.

Ivan Bowen, Maurice F. Lennon, and John R. Turney for applicant.

George F. Dyche, Oscar Lindstrand, F. X. Masterson, B. W. La Tourette, F. R. Overmyer, and H. H. Rogers for protestants.

Leo P. Kitchen and T. A. L. Loretz for interveners.

REPORT OF THE COMMISSION

DIVISION 5, COMMISSIONERS MAHAFFIE, ROGERS, AND ALLDREDGE

BY DIVISION 5:

This application was the subject of a report and recommended order by an examiner, to which order exceptions were filed by applicant. Included within such exceptions was a request for oral argument. The case was argued orally and thereafter the matter was reopened for further hearing. Exceptions were filed by applicant to the order recommended by the examiner on further hearing, to which rail-carrier protestants replied. Our conclusions differ somewhat from those recommended.

By application filed [1] February 10, 1936, as amended, Greyvan Lines, Inc., of Chicago, Ill., seeks a certificate of public convenience and necessity authorizing continuance of operations as a common carrier by motor vehicle, in interstate or foreign
181 commerce, of general commodities and household goods, between all points in the United States except those in Montana, Wyoming, Utah, New Mexico, Washington, Oregon, California, Nevada, Arizona, and Idaho, over irregular routes. Several motor and rail carriers oppose the application. Western States Household Goods Carriers' Bureau and United Van Lines, Inc., of Cleveland, Ohio, were permitted to intervene.

Applicant was incorporated under the laws of Indiana on February 23, 1929, under the name Transit Vans Company. In 1931, the name was changed to Greyhound Vans, Inc., and, in 1933, the name was changed to Greyvan Lines, Inc. It has used the latter name since 1933. From the time it began operation in 1929, and until 1932, applicant used both its own vehicles and those owned and operated by others in conducting its operations. Between 1932 and the spring of 1938, it owned no equipment of its own and relied entirely upon the use of vehicles owned by others. Since 1938, both company-owned vehicles and those belonging to owner-operators have been used. On June 1, 1935, about 56 tractors, 56 trailers, and 20 trucks were used. Of the present motor-vehicle equipment, consisting of 70 tractors, 70 trailers, and 10 trucks, applicant owns 20 tractors, 40 trailers, and 1 truck.

Pursuant to agreements in effect on June 1, 1935, and since that time, applicant has obtained the use of equipment belonging to so-called owner-operators for the conduct of its operations. Three forms of agreements have been entered into between applicant and such owner-operators. The first agreement was in effect from some time prior to June 1, 1935, until about February 1, 1937. According to the terms thereof, the owner-operator, designated as the "Agent" in the contract, agreed to furnish motor-vehicle equipment to the "Company" (applicant) and to "relinquish the full management and control of the operation of said equipment to the said 'Company'"; to paint the equipment at his own expense with the colors and emblems of the Company; to haul exclusively for the Company and "to subject himself and his said motor vehicle to all orders from the 'Company' representatives or agents who may be vested with such authority"; to employ, and himself pay for, any additional labor required in the performance of his service; to furnish packing materials and perform necessary packing, for which a commission based on extra charges assessed the shipper

[1] Under the "grandfather" clause of section 206 (a) of the Interstate Commerce Act.

by the Company would be paid; and to personally drive the equipment unless the Company gave permission for its own representative or one selected by the "Agent" to act as a substitute driver. The said "Agent" further agreed to pay for public-liability, property-damage, and cargo insurance to be placed by
182 and in the name of the Company for their joint protection, and to pay for such fire, theft, and collision insurance deemed necessary by the Company; to collect and turn over to the Company all money due the Company for hauling; to pay for all damage to goods in his possession, except as covered by cargo insurance, to indemnify the Company for all losses it sustained by reason of his acts or those of his employees, and to accept any adjustment made by the Company in the event of controversy with shippers; to pay for the cost of operation of the equipment, including permits, taxes, licenses, tolls, fines, and all other costs incident to the operation of the motor vehicle, except that the Company could voluntarily, but without obligation therefor, credit his account with the cost of any licenses, permits, or taxes; that all contracts for hauling should be in the name of the Company and that he would not enter into any hauling contracts on behalf of the Company except with its permission; that he would haul for no person other than the Company; and that he would bear all other expenses incurred by the Company for his express benefit.

Pursuant to the terms of the same agreement, the Company agreed to maintain offices in various cities in the United States; to contract with shippers for transportation; to maintain sales representatives at such points as it deemed advisable; and to pay as compensation for hauling 70 percent of the base load price, provided no subsequent claims arose, for each shipment handled. Each such agreement was effective for a period of 1 year with a provision for automatic renewal, but it could be canceled by the "Agent" at any time upon his written request and by the Company upon written notice.

The second contract, in effect about February 4, 1937, was substantially the same as the one previously in force except that the Company agreed to furnish cargo insurance at its own expense and to obtain and pay for all State permits except the resident vehicle license, which was to be secured by the owner-operator, and all taxes, tolls, fines, and other such items required by reason of the described operation. This second agreement also provided for a slightly different percentage basis of compensation and included bonuses for safe driving.

The third contract, in effect since June 1, 1937, is also substantially the same as the two previous agreements except as to minor changes in the measure of compensation to be paid such owner-operators.

Testimony was provided by an owner-operator residing in New Jersey who has devoted his equipment to the exclusive use of Greyvan since 1934 pursuant to the above-described agreements. In the use of his two units of equipment, this so-called agent has always received instructions from the Greyvan dispatcher as to the time and place of pick-up and delivery of loads, and Greyvan provided its own labor for loading at origin and unloading at destination. Prior to June 1935, his vehicles were licensed only in New Jersey, and Greyvan has always provided States permits, license, plates, and other necessary forms of authorities, including payment, at its own expense, of mileage taxes; claims have always been handled by Greyvan; he has never solicited hauling business; and, although specific routing instructions have generally been unnecessary, he has, in the past, been instructed to avoid operation through a few States for limited periods because of difficulty with authorities of such States. It has been his practice to leave on a trip upon direction of the Greyvan dispatcher and, after completing the move, wire the Greyvan office for instructions as to additional loads. In this service, he is away from home for several weeks at a time.

183

It is the duty of the dispatcher to select vehicles for all shipments and to direct their movement in a manner most economical to Greyvan. No shipment may be loaded and no vehicle may begin trips except pursuant to specific direction by this employee of applicant. In addition to the dispatchers, each of whom is located in a particular territory, applicant maintained 24 branch offices[2] on June 1, 1935. As of November 1, 1939, 20 offices were maintained, those at Dallas, Kansas City, Rochester, Hartford, and Atlanta having been closed, and Akron, Ohio, having been added. Such branch offices consist of an office girl and a manager. The manager is paid a salary plus a commission on business he is able to obtain for applicant. These persons are direct employees of applicant, and the cost of maintaining such offices has always been borne by it.

In addition to the use of such branch offices, applicant has also obtained business through what it terms an "agency" method. An "agency," as that term is used by applicant, consists of any person, whether it be another carrier, broker, or storage company, who

[2] Dallas, Tex., St. Louis and Kansas City, Mo., St. Paul, Minn., Detroit, Mich., Milwaukee, Wis., Chicago, Ill., Indianapolis, Ind., Cleveland, Cincinnati, Columbus, and Dayton, Ohio, New York, Buffalo, Rochester, and Syracuse, N. Y., Hartford, Conn., Boston, Mass., Newark, N. J., Philadelphia and Pittsburgh, Pa., Baltimore, Md., Washington, D. C., and Atlanta, Ga.

signs business for hauling by applicant or merely refers leads to applicant for booking and hauling. Such so-called agents are concerned only with collection of a 20-percent commission for the service of acting as intermediaries between the shipping public and applicant. No particular form of agreement has ever been in effect with such "agents," and they are not part of applicant's own operating organization. Such persons conduct their own warehouse or motor-carrier businesses, and the only ap-
184 parent limitation imposed by applicant is that they may not also represent motor carriers in competition with applicant.

The term "Agent" as applied to persons acting entirely as intermediaries, as described, is a misnomer. When they do not perform any part of the transportation, such persons act as brokers. See Townshend & Godman Broker Application, 4 M. C. C. 501. The "Agent" designated in the agreements heretofore commented upon, however, refers to the owner-operators and not the brokers.

In certain instances, applicant acquired title to motor vehicles which were sold to owner-operators pursuant to conditional sales contracts. On June 1, 1935, 28 vehicles were being operated under such agreements. Although such vehicles were used in applicant's service exclusively, it does not follow that applicant owned and operated such equipment. Applicant, itself, does not so contend. Rather the arrangement suggest a financial transaction having no immediate connection with the use of such equipment. Accordingly, we conclude that these transactions have no bearing upon the instant operations.

Having recited, at some length, the details of the arrangements between applicant and the owner-operators, it is necessary to determine whether applicant's status on June 1, 1935, and thereafter, was that of a common carrier by motor vehicle as defined in the act. Such a determination must be based upon the incidents of the operation as a whole and not upon any single isolated fact.

Section 203 (a) (14) defines a common carrier by motor vehicle as "any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of * * * property or any class or classes thereof for compensation * * *." That it was the intention of the parties that applicant assume all responsibility to the general public for the operation of the vehicles cannot be doubted. It is also clear that applicant's own employees directed the movement of the vehicles and caused the drivers thereof to comply with such company rules as would insure efficient operation. The maintenance by applicant of branch offices, staffed with its own employees, and dispatchers and other supervisory employees,

coupled with the exclusive use of equipment bearing only its own name, tend to indicate the existence of an organization designed to carry on a motor-carrier business. It has obtained State authority in its own name, has paid for mileage and other taxes, and has furnished license plates to the owner-operators for service into various States. The owner-operators, as indicated by the testimony provided by one in applicant's service continuously since prior to June 1, 1935, looked to applicant's direct
185 employees for instructions; they did not deal with the shipping public; they did not conduct motor-carrier operations on their own behalf; they did not hold themselves out to render services except for applicant and as directed by its employees; and they operated the equipment in continuous service for such trips and at such intervals as directed by applicant. Considering all facts presented here, we conclude that the transportation service performed on June 1, 1935, and continuously since, in vehicles leased by applicant from others, was performed by applicant, and that as to such transportation, applicant was and is a common carrier by motor vehicle as defined in the act. See Interstate Dispatch, Inc., Common Carrier Application, 30 M. C. C. 762.

In his report herein, the examiner recommended the granting of a certificate for the transportation of (1) used cash registers and parts therefor, and used adding and computing machines, from points in 24 States and the District of Columbia to Dayton, Ohio; (2) bakery equipment, dishwashers, scales and parts therefor, and food-mixing and cutting machines, from points in 15 States and the District of Columbia to Troy and Dayton, Ohio; and (3) household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, between points in 38 States and the District of Columbia. Applicant takes exception only to that part of the order recommended by the examiner which denies it authority to transport "Domestic, institutional, office and commercial furniture, furnishings, appliances, equipment, displays, machines, surgical instruments, musical instruments, fittings, fixtures, parts and supplies," between points in the same territory recommended for the transportation of household goods, without limitation as to origin or destination points.

Household goods has constituted the largest single class of commodities handled by applicant and, according to its own estimate, from 80 to 85 percent of its business has involved the transportation of that class. In the movement of household goods, applicant has served from 1,200 to 1,500 so-called national accounts in addition to numerous other individuals. These national accounts consist of organizations maintaining offices at various points throughout the United States, and applicant has moved their employees from

and to widely separated points. Numerous listings wer provided to indicate the points between which household goods, as well as certain other commodities, were transported both prior and subsequent to June 1, 1935. Of approximately 5,000 trips between 1933 and June 1, 1935, operation is shown to or from each of the 38 States and the District of Columbia. Such operation was continued after June 1, 1935, and the substantial evidence
186 presented is convincing that applicant has been engaged in the transportation of household goods between points in the described territory in a nonradial operation. Accordingly, appropriate authority will be granted herein to permit applicant to continue such operations.

* * * * * *

188 *Government Exhibit 15*

APPLICATION FOR IDENTIFICATION PLATES

(To be submitted in duplicate)

No. MC14786

Greyvan Lines, Inc., doing business as Greyvan Lines, Inc., 1338 S. Michigan Avenue, Chicago, Illinois. Number of plates requested, 30. Total amount enclosed, $7.50.

G. W. Healey makes oath and says that he is the Traffic Manager of the motor carrier named above; that he is authorized to act on behalf of said carrier in the matter of application for identification plates to be displayed upon the motor vehicles operated by said carrier; that the total number of motor vehicles so operated are ------ passenger vehicles, 34 trucks, 57 tractors, 57 semitrailers, ------ two-wheel trailers, and -- four-wheel trailers; and that he does hereby make application for 30 identification plates to be displayed upon these motor vehicles. He hereby agrees on behalf of said carrier that title to said identification plates shall at all times remain in the Interstate Commerce Commission, and that the reasonable cost thereof, herewith transmitted, is paid the said Commission in consideration of the right of the carrier to use the said identification plates in pursuance of the carrier's authorized interstate operations, and that the same will be surrendered by the carrier to the Commission whenever the Commission shall by general or special order or regulation require.

Subscribed and sworn to before me, a Notary Public in and for the State of Illinois and County of Cook this 17th day of September 1938.

[SEAL]

My commission expires April 8, 1938.

(Only one of the two copies of this application need be verified under oath.)

189 In the Supreme Court of the United States

October Term, 1946

No. 673

Stipulation re printing of record

Filed Jan. 17, 1947

The petitioner, not having printed the entire record taken in the District Court but have secured a stipulation that all exhibits should be transmitted to the Clerk of the Circuit Court of Appeals in original form (R. p. 238); and the petitioner desiring that, for the purpose of argument on the merits, certain of the exhibits so transmitted shall, in addition to those portions of the record printed in the transcript of the record filed in connection with the petition for certiorari, be printed, it is stipulated that the following portions (the omitted matter being indicated by asterisks), of the original exhibits on file with the Clerk, together with this stipulation, shall also be printed at the expense of the petitioner and not to be charged in the costs of the case:

1. Plaintiff's Exhibits A, B, C, D, F, G, H, J, and K.
2. Government Exhibits 1, 3, 4, 5, 6, 7, 8, 9, 10, and 15.
3. Government's Exhibit 12, the following parts only:

The title page thereof, and pages designated 60 to 67 inclusive and through line 4 of page 68 thereof.

4. Government's Exhibit 13, the following parts only:

a. Title Page.

b. Caption on page 1.

c. Beginning with "Statement of the Evidence" on page 3 and continuing through the "Issues" to the bottom of page 5.

190 d. The word "Argument" at top of page 6.

e. The last four paragraphs of page 7 through and including the first full paragraph at the top of page 9.

5. Government Exhibit 14, from its beginning to the end of the fourth line on page 725. (On the mimeographed copy, this extends to the end of the first full paragraph on sheet 9.)

George T. Washington,
GEORGE T. WASHINGTON,
Acting Solicitor General.

Wilbur E. Benoy,
Per R. L. S.
WILBUR E. BENOY,
Of Counsel for Respondent.

JANUARY 17, 1947.

U. S. GOVERNMENT PRINTING OFFICE: 1947

No. —

In the Supreme Court of the United States

OCTOBER TERM, 1946

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

v.

GREYVAN LINES, INC.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statutes and regulations involved	2
Statement	3
Specifications of errors to be urged	9
Reasons for granting the writ	10
Conclusion	13
Appendix	14

CITATIONS

Cases:

Burlingham v. *Gray*, 22 Cal. 2d 87, 137 Pac. 2d 9	11
Carroll v. *Social Security Board*, 128 F. 2d 876	7
Gulf Refining Co. v. *Brown*, 93 F. 2d 870	11
Johnson v. *Steele*, 154 Ore. 137, 59 Pac. 2d 237	11
Jones v. *Goodson*, 121 F. 2d 196	7
Magnolia Petroleum Co. v. *Johnson*, 149 Ark. 563, 233 S. W. 680	11
Magnolia Petroleum Co. v. *Pierce*, 132 Okla. 167, 269 Pac. 1076	11
National Labor Relations Board v. *Hearst Publications*, 322 U. S. 111	11
Radio City Music Hall Corp. v. *United States*, 135 F. 2d 715	7
Railroad Co. v. *Hanning*, 15 Wall. 649	7
Singer Manufacturing Co. v. *Rahn*, 132 U. S. 518	7
Standard Oil Co. v. *Anderson*, 212 U. S. 215	11
Texas Co. v. *Higgins*, 118 F. 2d 636	7
Texas Co. v. *Jackson*, 174 Miss. 737, 165 So. 546	11
United States v. *Anderson*, 269 U. S. 422	13
United States v. *Rindskopf*, 105 U. S. 418	13
United States v. *Silk*, No. 312 Oct. Term, 1946	10
United States v. *Vogel, Inc.*, 145 F. 2d 609	7
Walling v. *Rutherford Food Corp.*, 156 F. 2d 513	12
Welch v. *Helvering*, 290 U. S. 111	13
Western Express Co. v. *Smeltzer*, 88 F. 2d 94	11
Williams v. *United States*, 126 F. 2d 129; certiorari denied, 317 U. S. 655	7

72b140—46—1

Statutes:

	Page
Internal Revenue Code:	
Sec. 1400 (26 U. S. C. 1400)	16
Sec. 1401 (26 U. S. C. 1401)	16
Sec. 1410 (26 U. S. C. 1410)	16
Sec. 1426 (26 U. S. C. 1426)	16
Sec. 1600 (26 U. S. C. 1600)	16
Sec. 1607 (26 U. S. C. 1607)	16
Social Security Act, c. 531, 49 Stat. 620:	
Sec. 801 (42 U. S. C. 1001)	14
Sec. 802 (42 U. S. C. 1002)	14
Sec. 804 (42 U. S. C. 1004)	14
Sec. 811 (42 U. S. C. 1011)	15
Sec. 901 (42 U. S. C. 1101)	15
Sec. 907 (42 U. S. C. 1107)	15
Miscellaneous:	
Treasury Regulations 90:	
Art. 205	19
Art. 207	19
Treasury Regulations 91:	
Art. 3	19
Art. 14	19
Treasury Regulations 106:	
Sec. 402.204	16
Sec. 402.227	18
Treasury Regulations 107:	
Sec. 403.204	19
Sec. 403.227	19

In the Supreme Court of the United States

OCTOBER TERM, 1946

No. ——

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

v.

GREYVAN LINES, INC.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The Solicitor General, on behalf of Carter H. Harrison, individually and as Collector of Internal Revenue, prays that a writ of certiorari issue to review the judgment of the Circuit Court of Appeals for the Seventh Circuit, entered in the above-entitled cause on July 12, 1946, affirming the decision of the District Court of the United States for the Northern District of Illinois.

OPINIONS BELOW

The District Court wrote no opinion. The opinion of the Circuit Court of Appeals (R. 254–259) is reported 156 F. 2d 412.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on July 12, 1946. (R. 259.) On

September 19, 1946, a justice of this Court entered an order enlarging the time within which to file a petition for certiorari for a period of 60 days from October 12, 1946, or until December 11, 1946. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether truckmen who furnished their services and their own trucks in hauling goods under written contracts with the taxpayer and the helpers of such truckmen were performing services as employees of taxpayer within the provisions of Section 811 (b) and 907 (c) of the Social Security Act, and Sections 1426 (a) and 1607 (c) of the Internal Revenue Code as amended.

2. Whether the court erred in holding that the Commissioner's determination of the amounts of taxable wages was arbitrary, the amounts of taxable wages having been determined under an agreement between taxpayer and the Collector of Internal Revenue and taxpayer having offered no evidence to show that the determination was erroneous.

STATUTES AND REGULATIONS INVOLVED

The statutes and regulations involved are set forth in the Appendix, *infra*, pp. 14–19.

STATEMENT

Taxpayer brought these actions for the refund of taxes levied and collected under Titles VIII and IX of the Social Security Act and subchapters A and C of Chapter 9 of the Internal Revenue Code, for the year 1937 to 1942, inclusive, in the total amount of $32,226.49, plus interest. The undisputed facts may be briefly summarized as follows:[1]

Taxpayer, an Indiana corporation, is a common carrier operating over irregular routes in transporting household and other goods in 38 states and certain Canadian provinces. It was authorized to conduct its business under the grandfather clause of the Motor Carrier Act of Congress and applicatory acts and regulations of the several states, being certificated by the Interstate Commerce Commission and the regulatory authorities of the various states. It made written contracts with a number of owners of motor vehicle equipment hereinafter referred to as "truckmen", the pertinent provisions of which are briefly as follows:[2]

---

[1] Unless otherwise indicated the facts are taken from the findings of the District Court (R. 219–227).

[2] The provisions of the contract are summarized in the opinion of the Circuit Court of Appeals (R. 255–256). It was stipulated that the sample contract introduced in evidence as Exhibit A is identical in form to all the other contracts involved. (R. 121–122.) The contract is among the original exhibits in the case which do not appear in the printed record but are on file in the case.

The truckman was to furnish taxpayer for its exclusive service the trucks and equipment required in the transportation business. The trucks were required to be painted with colors designated by the taxpayer and repainted whenever the latter deemed it necessary. (Ex. A, Par. 1.) The truckman was to devote the trucks exclusively to taxpayer's service in hauling, loading and unloading goods in accordance with taxpayer's shipping contracts "and in connection therewith comply with all the rules and regulations and instructions of the Company". (Ex. A, Par. 2.)

The truckman was to hire any labor required incident to picking up, loading and delivering shipments "at his own expense and in his own employ and which shall be under his direction and control." (Ex. A, Par. 3.) The truckman was personally to drive the trucks except that he might use a competent helper as a relief driver and employ a substitute in unforeseen circumstances upon notifying the company and obtaining its approval, but either the truckman or substitute was required in such case to remain on the truck. (Ex. A, Par. 5.)

The truckman was required to load, unload, place on delivery, set up and take apart for shipping purposes all furniture and other goods "in accordance with the tariffs, rules and regulations of the Company". (Ex. A, Par. 6.) The truck-

man was to furnish fire, theft, collision and property damage insurance, the taxpayer being authorized to take out such insurance and charge it to the truckman's account. Taxpayer was to furnish cargo insurance on the goods transported. (Ex. A, Par. 7.) Each truckman was required to post a fidelity bond of $1,000 covering himself and substitute driver if any. (Ex. A, Par. 8.)

The truckman was to bear all operating costs such as property taxes, resident, vehicle license fees, fuel, tires and repairs, while the taxpayer was to bear the costs of permits and licenses for operations in its services under federal or state law. (Ex. A, Par. 13 (e).) The truckmen were not permitted to haul for other companies, breach of this provision making the contract subject to termination by taxpayer. (Ex. A, Par. 14.) The truckmen were to receive as remuneration a percentage of the pre-determined tariff charges ranging from 50% to 52%, plus an additional bonus up to three percent of the tariff charges for satisfactory personal appearances, mental attitude and good mechanical condition of the trucks. (Ex. A, Schedule 7.) All contracts and bills of lading for the hauling of goods were required to be between taxpayer and the shipper or consignor. (Ex. A, Par. 14 (a).) The contracts were subject to cancellation at any time upon written notice by either the truckman or the taxpayer. (Ex. A, Par. 20.) The provisions of the contracts were adhered to by the parties.

Beginning in 1940, taxpayer issued to each truckman "A Manual for Truckmen" containing numerous instructions and directions concerning the manner and method of operating the trucks, loading and unloading goods, crating, packing, etc., of furniture, and conduct of truckmen and helpers while on duty. Prior thereto bulletins were issued containing similar instructions. (R. 140–141.) Each truckman in the service or who later entered the service after the manual was issued received a copy of the manual. (R. 141.)[3]

The manual provided that the truckmen's duties were prescribed by the "rules" and such additional "orders" as might be issued by the general office. (Ex. 1, Rule 1.) The truckmen were required to belong to a designated labor union (Ex. 1, Rule 9) and to submit to physical examinations at any time (Ex. 1, Rule [redacted]). The company adopted for the truckmen's wear a prescribed uniform of cap, jacket, trousers and shirt to be worn with necktie, belt and shoes of a designated color. (Ex. 1, Rule 10.) The truckman must report at loading and unloading neatly shaven and with neat clean clothing (Ex. 1, Rule 11); they could use no alcoholic beverages while on duty (Ex. 1, Rule 12); they were required to see that their helpers abided by all the rules of the manual. The helpers were required to be members in good

[3] This manual (Ex. 1) is included among the original exhibits on file in this Court.

standing of labor unions and the truckmen were required to hire union helpers whenever possible and pay them standard union wages. (Ex. 1, Rule 17.) The truckmen must patronize and be available only at parking lots designated by the taxpayer. (Ex. 1, Rule 19.) They could take no time off at home or elsewhere without the taxpayer's consent. (Ex. 1, Rule 22.) On all trips they must take the most practicable route between designated points. (Ex. 1, Rule 23.) The curtains on the windows of the cab were required to be plain blue or white. (Ex. 1, Rule 25.) The manual was issued to the helpers as well as the truckmen. (R. 181–182.)[4]

Taxpayer's chief dispatcher, upon receiving information as to the contracts of shipment, assigned and gave loading and routing instructions as to the

---

[4] The court below stated that an officer of the company testified that the manual "had been impracticable and was not adhered to" (R. 257). The manual was, however, indubitably issued to the truckmen, and they were not informed that they were free to disregard it. (R. 141.) In any event it is the right to control and not the actual exercise of control which is significant in determining the existence of an employment relationship. *Singer Manufacturing Co.* v. *Rahn*, 132 U. S. 518; *Railroad Co.* v. *Hanning*, 15 Wall. 649, 656–657; *Williams* v. *United States*, 126 F. 2d 129 (C. C. A. 7), certiorari denied, 317 U. S. 655; *United States* v. *Vogue, Inc.*, 145 F. 2d 609 (C. C. A. 4); *Carroll* v. *Social Security Board*, 128 F. 2d 876 (C. C. A. 7); *Texas Co.* v. *Higgins*, 118 F. 2d 636, 639 (C. C. A. 2); *Jones* v. *Goodson*, 121 F. 2d 176 (C. C. A. 10); *Radio City Music Hall Corp.* v. *United States*, 135 F. 2d 715 (C. C. A. 2).

hauling of goods to truckmen here involved, as well as other truckmen driving company-owned trucks without distinction, depending on which were available on the parking lots.[5] (R. 145–146.)

Taxpayer obtained a certificate of public convenience and necessity from the Interstate Commerce Commission for its operations. In those proceedings in April, 1939, it filed exceptions (Ex. 13) to an examiner's report (Ex. 11) which had recommended disallowance of the petition for the certificate (Ex. 9) for lack of supporting evidence. Taxpayer stated in its exceptions that its equipment was operated under full management and control and that the equipment and owners were subject to all orders of the taxpayer's representatives and agents. (Ex. 13, p. 8). In October, 1939, taxpayer's counsel in arguing these exceptions before the Commission stated that for all intents and purposes the employer-employee relationship existed between taxpayer and the truckmen. (Ex. 12, pp. 66–67.)

In breaking down the payments to truckmen between wages and sums paid for use of equipment, the Commissioner used the union wage scale in determining wages. The total wages of the helpers were determined to be 41.67% of the wages paid the truckmen. (R. 224.) This

[5] The latter are concededly taxpayer's employees and not involved in this action (R. 222).

determination was based on a prior agreement between the Collector of Internal Revenue and taxpayer's treasurer in charge of the matter under which it was agreed that the allocation was "fair" and the figures used were "correct," although taxpayer's officer acknowledged no liability. (R. 141.) The assessments were made on the basis of the wages so allocated. (R. 25–26.)

The cases were consolidated and tried to the court without a jury. The District Court held that the truckmen were not employees but independent contractors (R. 222), and that the helpers were also not employees of taxpayer but employees of the truckmen (R. 226). It was further held that the determination of the amounts of taxable wages was arbitrary and illegal. (R. 224.) Judgment was entered for the taxpayer. (R. 228–230.) On appeal the Circuit Court of Appeals affirmed.

SPECIFICATION OF ERRORS TO BE URGED

1. The Circuit Court of Appeals erred in failing to hold that the persons in question were employees of the respondent and that it was liable for the social security taxes in question.

2. The Circuit Court of Appeals erred in failing to look to the purposes of the Social Security Act and to consider the economic facts of the relationship between the parties in holding and determining that the truckmen and their helpers were not

employees of the taxpayer within the meaning of the Act.

3. The Circuit Court of Appeals erred in its application of the common law test of master and servant in determining that the control of the truckmen over the number and identity of the helpers used in their operations was conclusive proof that they were not employees of the taxpayer.

4. The Circuit Court of Appeals erred in holding that the Commissioner's assessments and determinations of amounts of taxable wages of the truckmen and helpers were arbitrary.

REASONS FOR GRANTING THE WRIT

1. This case, like *United States* v. *Silk*, No. 312, certiorari granted October 21, 1946, involves the status as employees under the Social Security Act of truck drivers owning their own trucks but working regularly for another enterprise. The cases are similar in the respect mentioned; they differ in that here the taxpayer exercised and had power to exercise considerably greater control over the truckmen than in the *Silk* case. Inasmuch as the problem raised in the two cases is the same, and the facts typical variations of patterns which frequently recur, it is plainly desirable in the interest of clarifying the meaning of the statute that the two cases be heard together.

2. Although the Government contends here, as in the *Silk* case, that a broader rule than the tort,

or common law, test of the employment relationship should be applied in determining whether the truckmen were employees of taxpayer, the Circuit Court of Appeals erred even if the common law test is the proper criterion. Here not only did taxpayer have the right to control the truckmen in a great many important aspects of their work, but it actually exercised such control. While not denying this (R. 258), the court below thought that the truckmen's right to determine the number and identity of their helpers conclusively proved that the truckmen were not employees (R. 258–259). Clearly this one factor is not the conclusive one, as has frequently been held. *Standard Oil Co.* v. *Anderson*, 212 U. S. 215, 221; *Gulf Refining Co.* v. *Brown*, 93 F. 2d 870 (C. C. A. 4); *Western Express Co.* v. *Smeltzer*, 88 F. 2d 94 (C. C. A. 6); *Barlingham* v. *Gray*, 22 Cal. 2d 87, 137 Pac. 2d 9; *Magnolia Petroleum Co.* v. *Johnson*, 149 Ark. 553, 233 S. W. 680; *Johnson* v. *Steele*, 154 Ore. 137, 59 Pac. 2d 237; *Texas Co.* v. *Jackson*, 174 Miss. 737, 165 So. 546; *Magnolia Petroleum Co.* v. *Pierce*, 132 Okla. 167, 269 Pac. 1076.

In a case raising a similar problem under the Fair Labor Standards Act, now pending on certiorari before this Court, the Circuit Court of Appeals for the Tenth Circuit, following the theory of *National Labor Relations Board* v. *Hearst Publications*, 322 U. S. 111, rather than the common law doctrine, held that the employ-

ment relationship existed despite the authority of the intermediate worker to choose his own subordinates. *Walling* v. *Rutherford Food Corp.*, 156 F. 2d 513, pending on petition for certiorari No. 562. The question as to the meaning of the common law standard in this respect, if that standard is to be applied under the Social Security Act, recurs in a great many cases, and is in itself important enough to warrant review by this Court.

3. Although this would not be an independent ground for certiorari, the decision of the court below should not be permitted to stand because of its holding that the assessments by the Commissioner of Internal Revenue were arbitrary or that the amounts of taxable wages were improperly fixed by the Commissioner. The Commissioner made these assessments by determining the amounts of wages under an allocation of amounts paid the truckmen, broken down between wages and payments for use of equipment. This was in accordance with an agreement between the Collector and taxpayer's treasurer in charge of tax matters. The wages were fixed by the Commissioner on the basis of the best evidence available and the Commissioner's action was recognized by taxpayer's treasurer to be "fair" and "correct" (R. 141.) Taxpayer offered no evidence to show that the assessments were incorrect, and it clearly had the burden to establish their incor-

rectness. *United States* v. *Anderson*, 269 U. S. 422; *United States* v. *Rindskopf*, 105 U. S. 418; *Welch* v. *Helvering*, 290 U. S. 111.

CONCLUSION

For the reasons stated it is respectfully submitted that this petition for a writ of certiorari should be granted.

GEORGE T. WASHINGTON,
Acting Solicitor General.

NOVEMBER 1946.

APPENDIX

Social Security Act, c. 531, 49 Stat. 620:

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

* * * * *

(42 U. S. C. 1001.)

SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

* * * * *

(42 U. S. C. 1002.)

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages

of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

* * * * *

(42 U. S. C. 1004.)

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

* * * * *

(42 U. S. C. 1011.)

SEC. 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

* * * * *

(42 U. S. C. 1101.)

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some

twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

* * * * * *

(42 U. S. C. 1107.)

Similar provisions appear in Section 1400 (1) and (2), 1401 (a) and (b), 1410 (1) and (2), 1426 (a) (1), (b), and (f), 1600 and 1607 of the Internal Revenue Code.

Treasury Regulations 106, promulgated under the Federal Insurance Contributions Act:

SEC. 402.204. *Who are employees.*— Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it

shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

* * * * *

SEC. 402.227. *Wages*—(a) *In general.* * * *

* * * * *

The term "wages" means all remuneration for employment unless specifically excepted under section 1426 (a) of the Act (see section 402.228).

The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages within the meaning of the Act if paid as compensation for employment.

The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

* * * * *

Remuneration for employment, unless such remuneration is specifically excepted

under section 1426 (a), constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

* * * * *

Section 403.204 and 403.227, Treasury Regulations 107, promulgated under the Federal Unemployment Tax Act, are substantially the same as in the above sections. Articles 205 and 207, Treasury Regulations 90, promulgated under Title IX of the Social Security Act, are substantially the same as the above. Articles 3 and 14, Treasury Regulations 91, promulgated under Title VIII of the Social Security Act, are substantially the same as the above.

U. S. GOVERNMENT PRINTING OFFICE: 1946

FILE COPY

Office - Supreme Court, U. S.
FILED
FEB 20 1947
CHARLES ELMORE CROPLEY
CLERK

No. 673

In the Supreme Court of the United States

OCTOBER TERM, 1946

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

v.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE PETITIONER

INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statutes and regulations involved	2
Statement	2
The contract	4
The union agreement	7
Holding out to the public	8
Method of operation	9
The "Manual for Truckmen"	13
Proceedings before the Interstate Commerce Commission	21
The taxes assessed	23
Specification of errors to be urged	24
Summary of argument	25
Argument:	
I. The truckmen and their helpers were employees of the respondent within the intent and purposes of the social security law	27
II. The truckmen and their helpers are "employees" of the respondent within any generally accepted meaning of the term	31
III. The tax was not illegal as being an arbitrary sum arbitrarily determined	45
Conclusion	49
Appendix	50

CITATIONS

Cases:

Acme Fast Freight v. *United States*, 30 F. Supp. 968, affirmed per curiam, 309 U. S. 638	35
Allied Van Lines, Inc., Common Carrier Application, 46 M. C. C. 159	35
American Oil Co. v. *Fly*, 135 F. 2d 491	32
Birmingham v. *Bartels*, 157 F. 2d 295, certiorari granted January 6, 1947	32, 44
Burnet v. *Houston*, 283 U. S. 223	46, 49
Burnet v. *Niagara Brewing Co.*, 282 U. S. 649	48
Burruss v. *B. M. C. Logging Co.*, 38 N. M. 254	42
Carter Oil Co. v. *McQuigg*, 112 F. 2d 275	3
Casement v. *Brown*, 148 U. S. 615	33
Cochran v. *Rice*, 26 S. Dak. 393	42

Cases—Continued

	Page
Columbia River Packers Association v. *Hinton*, 315 U. S. 143	34
Deecy Products Co. v. *Welch*, 124 F. 2d 592	32
Dixie Ohio Exp. Co., Common Carrier Application, 17 M. C. C. 735	35
General Wayne Inn v. *Rothensies*, 47 F. Supp. 391	44
Glenn v. *Beard*, 141 F. 2d 376, certiorari denied, 323 U. S. 724	32
Grace v. *Magruder*, 148 F. 2d 679, certiorari denied, 326 U. S. 720	29
Greyvan Lines, Inc., Common Carrier Application, 32 M. C. C. 719	30, 35
Gulf Refining Co. v. *Brown*, 93 F. 2d 870	44
Helvering v. *Davis*, 301 U. S. 619	29
Industrial Com. v. *Bonfils*, 78 Colo. 306	42
Interstate Dispatch Inc., Common Carrier Application, 30 M. C. C. 763	34
Irvan v. *Bounds*, 205 Ark. 752	42
Jones v. *Goodson*, 121 F. 2d 176	32, 44
Kuhn v. *Princess Lida of Thurn & Taxis*, 119 F. 2d 704	3
Maltz v. *Jackoway-Katz Cap Co.*, 336 Mo. 1000	42
Messmer v. *Bell & Coggeshall Co.*, 133 Ky. 19	42
Metcalf & Eddy v. *Mitchell*, 269 U. S. 514	42
National Labor Relations Board v. *Hearst Publications*, 322 U. S. 111	28
Paschal v. *Blieden*, 127 F. 2d 398	46
Railroad Co. v. *Hanning*, 15 Wall. 649	33, 44
Railway Exp. Agency, Inc., Extension-Wagonner, Ill., 44 M. C. C. 1	35
Reinecke v. *Spalding*, 280 U. S. 227	46, 49
Singer Manufacturing Co. v. *Rund*, 132 U. S. 518	25, 33, 39, 40, 41, 42
State Farm Mutual Auto Insurance Co. v. *Bonacci*, 111 F. 2d 412	3
Steward Machine Co. v. *Davis*, 301 U. S. 548	29
Sun Insurance Office, Ltd. v. *Be-Mac Transport Co.*, 132 F. 2d 535	3
Texas Co. v. *Higgins*, 118 F. 2d 636	32
Thomson v. *United States*, 321 U. S. 19	34, 35
United States v. *Silk*, No. 312, October Term, 1946	3, 25, 27, 28, 39, 42
United States v. *American Trucking Ass'ns*, 310 U. S. 534	28
United States v. *Anderson*, 269 U. S. 422	46, 49
United States v. *Ludey*, 274 U. S. 295	48
United States v. *Mitchell*, 104 F. 2d 343	3
United States v. *Vogue, Inc.*, 145 F. 2d 609	29, 44
Utah Power & Lt. Co. v. *Pfost*, 286 U. S. 165	48

Cases—Continued Page
Western Express Co. v. *Smeltzer*, 88 F. 2d 94, certiorari denied, 302 U. S. 698 44
Wickwire v. *Reinecke*, 275 U. S. 101 ..... 46, 49
Willard Sugar Co. v. *Gentsch*, 59 F. Supp. 82 44
Williams v. *Terminal Co.*, 315 U. S. 386 44
Williams v. *United States*, 126 F. 2d 129, certiorari denied, 317 U. S. 655 32

Statutes:
Internal Revenue Code:
Sec. 1400 (26 U. S. C. 1940 ed., Sec. 1400) 52
Sec. 1401 (26 U. S. C. 1940 ed., Sec. 1401) 52
Sec. 1410 (26 U. S. C. 1940 ed., Sec. 1410) 52
Sec. 1426 (26 U. S. C. 1940 ed., Sec. 1426) 28, 52
Sec. 1600 (26 U. S. C. 1940 ed., Sec. 1600) 52
Sec. 1607 (26 U. S. C. 1940 ed., Sec. 1607) 28, 52
Sec. 3612 (26 U. S. C. 1940 ed., Sec. 3612) 46, 52
Interstate Commerce Act, c. 498, 48 Stat. 543, Part II, as amended by the Act of September 18, 1940, c. 722, 54 Stat. 919, Title I, Section 15 30
Social Security Act, c. 531, 49 Stat. 620:
Sec. 801 (42 U. S. C. 1940 ed., Sec. 1001) 45, 50
Sec. 802 (42 U. S. C. 1940 ed., Sec. 1002) 45, 50
Sec. 804 (42 U. S. C. 1940 ed., Sec. 1004) 45, 50
Sec. 811 (42 U. S. C. 1940 ed., Sec. 1011) 27, 45, 51
Sec. 901 (42 U. S. C. 1940 ed., Sec. 1101) 51
Sec. 907 (42 U. S. C. 1940 ed., Sec. 1107) 27, 52

Miscellaneous:
Restatement of the Law of Agency, Sec. 220 33
Rules and Regulations Governing the Display of Identification Plates by Motor Carriers Subject to the Motor Carrier Act, 1935 (2 Fed. Register (1937), Part I, pp. 1066–1067) 36
Treasury Regulations 90:
Art. 205 ..... 32, 33, 53
Art. 207 55
Treasury Regulations 91:
Art. 3 56
Art. 14 56
Treasury Regulations 106:
Sec. 402.204 56
Sec. 402.227 56
Treasury Regulations 107:
Sec. 403.204 56
Sec. 403.227 56

In the Supreme Court of the United States

OCTOBER TERM, 1946

No. 673

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE, PETITIONER

v.

GREYVAN LINES, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE PETITIONER

OPINIONS BELOW

The District Court wrote no opinion. The opinion of the Circuit Court of Appeals (R. 254–259) is reported at 156 F. 2d 412.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on July 12, 1946 (R. 259). On September 19, 1946, a Justice of this Court entered an order enlarging the time within which to file a petition for certiorari for a period of 60 days from October 12, 1946, or until December 11, 1946 (R. 259). The petition for a writ of certiorari

was filed on November 6, 1946, and granted December 16, 1946 (R. 260). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether truckmen who furnished their services and their own trucks in hauling goods under written contracts with the taxpayer and the helpers of such truckmen were performing services as employees of taxpayer within the provisions of Sections 811 (b) and 9 (c) of the Social Security Act and Sections 1426 (b) and 1607 (c) of the Internal Revenue Code, as amended.

2. Whether the court erred in holding that the Commissioner's determination of the amounts of taxable wages was arbitrary, the amounts of taxable wages having been determined under an agreement between taxpayer and the Collector of Internal Revenue and taxpayer having offered no evidence to show that the determination was erroneous.

STATUTES AND REGULATIONS INVOLVED

The statutes and regulations involved are set forth in the Appendix, *infra*, pp. 50–56.

STATEMENT

Respondent brought these actions for the refund of taxes levied and collected under Titles VIII and IX of the Social Security Act and sub-

chapters A and C of Chapter 9 of the Internal Revenue Code, for the years 1937 to 1942, inclusive, in the total amount of $32,226.19, plus interest. Except for a few relatively minor matters the facts shown by the evidence are not in dispute.[1]

Respondent, an Indiana corporation, is a common carrier operating over irregular routes in transporting household and other goods in 38 states and certain Canadian provinces (R. 219). It is authorized to conduct its business under the grandfather clause of the Motor Carrier Act of Congress and applicable acts and regulations of the several states, being certificated by the Interstate Commerce Commission and the regulatory

[1] The findings (R. 219–227) are in the main not inaccurate insofar as they recite facts as distinct from conclusions. But they omit almost all of the undisputed and mainly documentary facts which lead to a conclusion different from that reached by the district court, and give no real picture of how respondent's business is carried on. Inasmuch as these facts are largely documentary and undisputed, the failure to find them was "clearly erroneous" and this Court is not bound by the incomplete findings. *Sun Insurance Office, Ltd.* v. *Be-Mac Transport Co.*, 132 F. 2d 535 (C. C. A. 8); *Carter Oil Co.* v. *McQuigg*, 112 F. 2d 275, 279 (C. C. A. 7); *United States* v. *Mitchell*, 104 F. 2d 343, 346 (C. C. A. 8); *Kuhn* v. *Princess Lida of Thurn and Taxis*, 119 F. 2d 704 (C. C. A. 3); *State Farm Mutual Auto Insurance Co.* v. *Bonacci*, 111 F. 2d 412, 414–415 (C. C. A. 8). See brief for the United States in *United States* v. *Silk*, No. 312, pp. 58–60. This statement is accordingly based upon the facts. To the extent permissible within the limits of a brief it attempts to give a complete picture.

authorities of the various states (R. 219). It files its tariff charges with the Interstate Commerce Commission (R. 219).

The Contract.—Respondent made written contracts with a number of motor vehicle equipment owners hereinafter referred to as "truckmen". The pertinent provisions of these contracts (R. 265–275) may be summarized as follows:[2]

The truckman was to "furnish to the Company for its exclusive service" the truck and equipment required in the transportation business. The truck was required to be painted with colors designated by the respondent and repainted whenever the latter deemed it necessary. (R. 265.). Paragraph 2 provided (R. 265–266):

> The Truckman will devote said motor-truck or trucks *exclusively to the services of the Company in its transportation* of goods, wares, and merchandise, loading and unloading the same and delivering to destination in accordance with the shipping contracts or bills entered into by the Company with its consignors or consignees; and in *connection therewith comply with all the rules and regulations and instructions of the Company.*[3]

---

[2] The provisions of the contract are summarized in the opinion of the circuit court of appeals (R. 255–256). It was stipulated that the sample contract (R. 265–275) introduced in evidence as Exhibit A is identical in form with all the other contracts involved (R. 121–122).

[3] All italics in this brief are supplied. Respondent's counsel stated that under such a contract "you have a right to give

The truckman was to hire any labor required incident to picking up, loading, and delivering shipments "at his own expense and in his own employ and which shall be under his direction and control." (R. 266.)

Paragraph 5 provided that (R. 266):

> The Truckman will *personally drive* his motortruck or trucks exclusively, unless unforeseen circumstances require his employment of a substitute driver, of which the Company shall be notified and give its approval; provided, however, that the Truckman may permit a competent helper to act as a relief driver, so long as *such Truckman or such substitute driver remains personally on said motortruck* or trucks.[4]

The truckman was required to load, unload, place on delivery, set up and take apart for shipping purposes all furniture and other goods "in accordance with the tariffs, rules and regulations of the Company" (R. 266). The truckman was to furnish liability and property damage insurance (R. 266) "in such limits *as may in the opinion of the Company* be considered necessary for the protection of the interests concerned", and

---

such instructions as you care to. The agreement was to abide by any rules and instructions that the company might give them" (R. 182).

[4] This provision was enforced by the Company so as to prevent a truckman whose father had died from letting the helper drive the truck back empty to Chicago (R. 187).

"fire, theft, collision, and other insurance *which the Company may specify* upon his motortruck or trucks at his own expense whenever, *in the opinion of the Company,* such insurance is necessary for its protection, and name the Company as an additional assured as its interests may appear" (R. 267). The Company was authorized to take out such insurance "jointly cover[ing] the liability of the Company and the Truckman" (R. 267) and charge it to the truckman's account. Respondent was to furnish cargo insurance on the goods transported (R. 266–267). Each truckman was required to post a fidelity bond of $1,000 covering himself and substitute driver, if any, and post a cash deposit of $250 with the Company pending final settlement of accounts (R. 267).

The truckman was to bear all operating costs such as property taxes, resident vehicle license fees, fuel, tires and repairs, while the respondent was to bear the costs of permits and licenses for operations in its service under federal or state law (R. 268–269).[5] The Company was authorized to "charge to the truckman's account" the cost of all damage or other claims (R. 268), which implied that the Company would bear the loss in the first instance. The truckman was to maintain the trucks in good condition at his own expense (R. 268). The truckman was not permitted to haul for other companies (R. 270). The truckman

[5] The truckman bore the cost of the license in the state of his residence (R. 269).

was to receive as remuneration a percentage of the predetermined tariff charges ranging from 50% to 52%, plus a bonus up to three percent of the tariff charges for satisfactory personal appearances, mental attitude and good mechanical condition of his truck (R. 270–273).

All contracts and bills of lading for the hauling of goods were required to be between respondent and the shipper or consignor (R. 270). The truckman was "to collect all moneys due the Company" in accordance with the Company's "instructions" (R. 268). The employment contract was subject to cancellation at any time upon written notice by either the truckman or the respondent (R. 271). The contract form was in use prior to the Social Security Act, and provisions of the contract were adhered to by the parties (R. 226).

The Union Agreement.—The respondent operated under a union contract (R. 368–371), covering "only such members of the Union * * * that own and operate their own equipment" (R. 369), with the Van Drivers', Chauffeurs, Piano, Furniture Movers, Packers and Helpers Union, Local #711, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America. The contract provided that the parties "subscribe to the provisions of and definitions concerning unfair labor practices set forth in the Wagner National Labor Relations Act." It also

provided that any truckman "must first become a member of the Union in good standing" before the respondent will enter into a contract of employment with him; that the Union may "reject the application of any person who, in its opinion, is not qualified to become a member of the Union," and that the Company would deduct Union dues and remit them to the Union (R. 370). A grievance board of Union and Company representatives was established to adjust all grievances. There was to be no "strike or walk-out while the Grievance Board referred to herein shall be considering a matter referred to it for decision, providing such Grievance Board acts within thirty (30) days" (R. 370). It was further provided that the truckmen would be required to hire Union helpers and drivers when available and to pay Union wages (R. 370). The contract stated "It is understood that such helpers or drivers are not the employees of the Company, but will be hired and paid by the Truckman and subject to his direction and control" (R. 370). The compensation paid to the truckmen was determined under a schedule of rates established between the respondent and the Union (R. 371). The agreement was subsequently amended to prescribe wages "When the Company hires Drivers to Drive Company Owned Trucks" (R. 374).

Holding out to the public.—The operation of the vans was held out to the public as a Company

undertaking. The Company required the vans to bear its name and to be painted with its colors (R. 265, 106). The photographic exhibits (opposite R. 374, 368) shows that only the Company's insignia appeared on the vans. (See also R. 188.) The Company operates through drivers admittedly its employees (R. 139, 161) a number of its own vans which are indistinguishable in appearance from the vans owned by the drivers (R. 110, 158). The shipper was not advised who owned the equipment (R. 190).

All papers received in relation to shipments were made out in the Company's name (R. 110). The Company's Shipping Order (plaintiffs' Exhibit C, opposite R. 275) advised customers that "the word company [is] understood throughout this contract as meaning any person or corporation in possession of the property under the contract". The Company advertised that (Exhibit 3, opposite R. 368) "modern vans, trained personnel and fine equipment are combined by Greyvan to provide you with perfect moving service."

Method of operation.—Before commencing upon his duties with the Company the truckman was required to attend a school in which he was taught how to handle his part of the paper work details of the Company's business and the mechanical and public relations problems arising in the course of his duties (R. 97, 181–192). It was necessary for the truckman to take this course

even though he had 12 years prior experience in the trucking business (R. 105–106). These instructions were supplemented with practical knowledge gained from traveling on the vans as a student (R. 96–97).

Respondent's chief dispatcher, upon receiving information as to contracts of shipment, assigned and gave instructions as to the hauling of goods to the truckmen here involved, as well as to other truckmen driving company-owned trucks, without distinction, depending on which were available (R. 145–146).[6] When a load was delivered the driver phoned or wired the dispatcher or reported to a branch office if there was one in that locality. The dispatcher then gave him further orders (R. 146). Loading directions were prepared in the dispatcher's office and issued in writing to the truckman (R. 146, Exhibit B, opposite p. 275). Shipments were handled in the same manner whether hauled by a truckman or by a driver operating a company-owned truck (R. 145). No load could be picked up by a truckman until such time as permission was given him by an official of the Company (R. 152), even though the load might represent business solicited and developed by the truckman (R. 109, 156). If a truck broke down, the Company was immediately notified, and if necessary, sent another truck (R. 149). The

[6] The drivers of company-owned equipment are concededly respondent's employees and not involved in this action (R. 222).

truckman was not directed as to the route to be taken.[1] (R. 103.)

The truckman paid all his expenses, bridge tolls, and fines but was allowed advances by the Company (R. 124). Although the truckman paid for his supplies and equipment, it was bought through the Company to get discounts (R. 100). Gasoline was procured through credit cards made out to the Company (R. 100, 108), but subsequently charged by the Company to the truckman's account. Insurance was carried under a blanket or fleet policy taken out by the Company (R. 101, 168), but charged to the truckman's account. Truckmen were instructed whether to extend credit or collect C. O. D. (R. 98). Amounts collected were to be remitted to the Company as soon as possible (R. 98–99). Truckmen were paid by the Company for some of their deadhead mileage (R. 150, 272–273). The account of each truckman was settled with the Company monthly (R. 100). The truckmen made considerably more than Company drivers not owning their trucks; estimates of the truckmen's income range from $250 to $500 per month net. (R. 102, 127, 177). The truckman's investment in truck, trailer and equipment, was approximately $5,000 (R. 116,

[1] When the shortest route to a destination passed through Kentucky, where the vans were too large to meet the state's maximum requirements and fines and delays might be incurred, the Company advised an alternative route "through suggestion" (R. 152, 187).

225). Some of the truckmen operate more than one truck (R. 167).

Small damage claims were settled by the truckman in cash on the spot; otherwise damage claims were reported to and settled by the Company, and charged to the truckman's account (R. 99–100). The truckmen hired and paid their own helpers for loading and unloading, using Union help when available (R. 99, 111, 116, 135).

The truckmen are "given to understand" that it "was the custom for all the boys" to purchase standard Company uniforms (R. 185), although they were not acually required to do so (R. 103, 111–112, 170–171, 179).

A Company official testified that truckmen had the right to refuse to accept loads assigned to them "though contract truckmen do not, as a common thing, refuse to handle shipments when they are issued instructions on those orders" (R. 146), that the company determined "whether the reason for the refusal was good or not" (R. 151, 146–147), and if not that the Company could terminate the contract (R. 147). A former owner-driver testified that he had no such right to refuse loads, and that he only refused a load when he intended to quit (R. 191–192).[8] We do not regard this testimony as conflicting, inasmuch as read as a whole it clearly means that the driver had the same right as any employee to refuse to do work which he was ordered to perform, but

[8] The trial court made no finding as to this point.

that he was subject to dismissal if the Company thought his refusal unreasonable.

The "Manual for Truckmen".—Beginning in 1940, respondent issued to each truckman a "Manual for Truckmen" containing numerous instructions and directions (R. 140–141). Prior thereto bulletins were issued (R. 140–141). Each truckman in the service or who entered the service after the Manual was issued received a copy of the Manual (R. 141).

A Company official testified that the Manual was "impractical and was not adhered to", but admitted that the truckmen were "never notified * * * that they were not obliged to follow the Manual" (R. 171). A former driver-owner testified that he had read the Manual when he started work, that he carried it with him in his truck but half the time didn't know where it was, and that he used his own judgment as to whether to follow the rules therein specified (R. 104).[9] Another former driver-owner testified that he was handed the Manual but not otherwise told about it, and that he interpreted it "to be an instruction of the company to follow" (R. 185–186).[10]

[9] The Company offered to produce five other witnesses who would offer cumulative testimony. The court indicated that it did not wish to hear such testimony but that the record should show the Company's offer (R. 120–121).

[10] Although the trial court was of a contrary view (R. 186), we think a worker's interpretation of the effect of a book of instructions is relevant apart from what the employer told him about it.

It is almost impossible within the confines of a brief to indicate the manner in which the Manual purported to control the minute details of a truckman's work. The Court is respectfully referred to it in its entirety (R. 276–368). Some pertinent passages will be quoted or summarized here.

The Manual opened with the following Introduction (R. 276-277):

> The purpose of this manual is to give the truckmen of Greyvan Lines a clear and concise picture of the proper methods to follow in their operations. The manual will, of course, fail in its purpose if truckmen do not read it thoroughly, refer to it frequently, and follow all instructions diligently.
>
> No rule or regulation has been included which, to our knowledge, is not to the best interests of the Company and entirely reasonable.

The Manual was divided into sections with appropriate headings for the various subjects to which the rules related. Section 1[11] entitled "General Rules" (R. 281–285) begins as follows:

---

[11] A preface to Section 1 (R. 280–281) entitled "Loyalty" contains the following:

"If you work for a man, in Heaven's name work for him. If he pays you earnings that supply your bread and butter, work for him—speak well of him—think well of him—stand by him and stand by the institution he represents.

"I think if I worked for a man I would work for him. I would not work for him a part of the time and the rest of

The following pages contain General Rules of the Company and should be read very carefully and at frequent intervals. No criticism will befall a truckman who follows these rules and regulations carefully.

General Rules

1. Duties.—Truckmen's duties are prescribed by the rules herein contained and such additional orders as may be hereafter issued by the General Office. If in doubt as to the meaning of any rule, the driver should immediately apply to the nearest office for explanation. Ignorance of the law or of any rule of the Company will not be accepted as an excuse.

2. Manual Changes.—This book contains the fundamental rules. When changes in the instructions outlined in this manual are necessary, they will be issued by the General Office to all drivers. The changes will be accompanied by instructions as to where they are to be placed in the manual.

3. General Letters.—Special conditions require bulletins and general letters to be issued from time to time. These will be

---

the time against him. I would give an undivided service or none. If put to the pinch, an ounce of loyalty is worth a pound of cleverness.

* * * * *

"Don't worry yourself and other Truckmen or employees with your problems and difficulties—take them up fairly and frankly with the department heads in the General Office. You will receive every courtesy and consideration."

issued by the various departments of the General Office to each truckman:

* * * * *

The "General Rules" continue (R. 282):

5. Conflict Between Laws and Rules.—No rule will be promulgated that is in conflict with law, but in some instances rules may be more strict than the legal requirements and truckmen must therefore, be familiar both with the laws governing the operation of their vehicles as well as the rules of the company on the same subject.

6. Truckmen's Responsibility.—The truckman is held responsible for:

A. The strict observance of all rules and instructions that may be issued.

* * * * *

Then follow general references to safety, proper handling and packing, proper maintenance, proper handling of reports, and cleanliness of equipment (R. 282). The rules then continue (R. 282–283):

7. Physical Examination.—The Company may require any driver to submit to a physical, or other examination at any time.

8. Attitute.—It is expected that at all times the attitude and conduct of the driver will be in the best interest of the Company. Any suggestions or complaints should be presented in writing or in person at the General Office where the matter will be given full consideration.

9. Union.—Truckman must be a member in good standing of the A. F. of L. Van Driver's Union Chicago Local #711.

10. Uniforms.—The company has adopted a uniform consisting of Greyvan Blue Uniform cap, jacket, trousers, or breeches, and Greyvan Gray uniform shirt, all to be worn with black necktie, belt and shoes or boots.

11. Cleanliness.—Truckmen and helpers must report at loading and unloading points cleanly shaven and with clean and neat clothing.

No truckman could come on duty "under the influence of even one drink of alcholic liquor or beverage, nor shall any truckman drink any alcoholic liquor or beverage while on duty, nor carry alcoholic liquor or beverage on his person. Intoxication while on duty will be cause for immediate dismissal" (R. 283).

"The mental attitude of the truckman, his freedom from unusual cares and worries," was considered "important in the satisfactory performance of his duties. For this reason the Company objects to truckmen having continual domestic troubles, outside business worries, attachment suits, garnishments, assignments of wages, and other personal difficulties when it appears that because of such troubles the truckman is not free to devote his entire attention to his duties". (R. 283.)

"No woman, whether wife, sweetheart, mother, sister, daughter, or 'hitch-hiker' is allowed on any van at any time" (R. 283).

"Truckmen and helpers must be diplomatic, courteous and tactful in dealing with shippers and others. The Company expects truckmen and helpers to be gentlemen at all times. Truckmen are not to smoke while in the shipper's home, nor inside of the van." (R. 283.) A subsequent elaboration of these general rules states that "Such terms as 'Dad,' 'Pop,' 'Pardner,' 'Lady,' 'Sister,' or 'Babe,' speaking of or to the shipper, will not be tolerated" (R. 315).

In connection with other aspects of the truckman's work the Manual provided:

Truckmen had to "patronize and be available only at parking lots designated by the Company. Each van shall purchase as much gas as possible at designated lots." (R. 284, 338.)

"Under no circumstances are Truckmen to take time off at home or elsewhere except on authority of the General Office." "On all trips the driver is to take the most practicable route between the two designated points except as otherwise dispatched." (R. 284.) "All drivers are forbidden to use or drive the vehicles of shippers or others for any purpose in connection with the Company's business" (R 284).

The interior of the cab was to be neat and orderly with no postcards, souvenir pennants,

etc., in the cab and any curtains in the windows were to be "plain blue or white" (R. 284). "Only authorized paint, color, design and lettering are to be used" (R. 285).

"Schedules for deadheading are as important as schedules when Truckman is handling a shipment. Should there be any delay en route, proper parties must be advised. * * * He should be sure to receive Instructions in sufficient time to make all necessary arrangements for proper help and loading." (R. 285.)

Section 2 of the Manual (R. 285–293), dealing with "Procedure," declares in its introductory statement (R. 285):

> The following pages outline the procedure to be followed from the time the truckman receives instructions to load (Instructions to Truckman) until he finishes his job and prepares for the next shipment. Truckman should be fully acquainted with every phase of this important work and should review these instructions from time to time to see that they are followed very carefully.

The section then describes in detail how every operation should be carried on.

The Manual contains a number of provisions with respect to helpers:

"No truckman may turn his van over to his helper or other person without specific authority from the General Office" (R. 283).

"Truckmen must see that all helpers abide by the rules contained herein" (R. 283).

Truckmen shall employ Union helpers "who are duly qualified to perform such services, whenever they are available, and shall pay his said helpers the prevailing rate of pay of Local Unions. Whenever any truckman is operating into or out of any location where a strike condition exists affecting his operation, he must first contact the proper representative of the Union" and "abide strictly" by his instructions (R. 283-284).

It was further provided that: (R. 309)

> Helpers may only be acquired in the following manner:
>
> 1. It must be understood that where possible only such men are to be used as have proper union a*ll*iliations [sic].
>
> 2. When reporting for loading or unloading in a city or vicinity of a city where we maintain an office, Approved Parking Lot Helpers only may be used if available. A list of these helpers will be mailed from time to time. Other helpers are not to be used if approved parking lot helpers are available.
>
> 3. When loading or unloading in a city or vicinity of a city where we maintain an office and no approved parking lot helpers are available, Truckmen must contact the local office for help which will be secured from a local warehouse or local union.
>
> 4. When unloading in a city maintain an agent, help must the agent if possible.

cured from agent should be made directly to the agent rather than to his men.

5. Where help cannot be secured from an agent or there is no agent or office at loading or unloading point, secure help only from a local mover or local union.

* * * * *

(R. 315.)

* * * Truckman must not take any helper on a job unless he is clean and neat. He is not to allow any helper to discuss his business with the shipper. The sole duty of a helper is to help get the furniture either from the van to the house, or from the house to the van. All other matters connected with the job are solely between the shipper and the Truckman. Helpers must not be allowed to enter into them.

The remainder of the manual includes rules as to bills of lading (R. 293); claims (R. 296); freight bills (R. 298); furniture loading and unloading (R. 302); inventory (R. 309); packing (R. 312); maintenance (R. 321); safety (R. 330); credit cards (R. 337). It concludes with a list of parking lots, offices and agents (R. 338–368). "Where Parking Lots are designated they are the only parking places which will be used in the respective cities." "If we have an office or agent in that city, report there before loading or unloading." (R. 338.)

Proceedings before the Interstate Commerce Commission.—Respondent obtained a certificate public convenience and necessity from the In-

terstate Commerce Commission for its operations. In those proceedings in April, 1939, it filed exceptions (R. 385–388) to an examiner's report (R. 385) which had recommended disallowance of the petition for the certificate (R. 381) for lack of supporting evidence. Respondent stated in its exceptions that (R. 387): "This 'driver-owner' equipment was operated under the full management and control of the company, and together with the owner was subject to all orders of the company's representatives and agents." In October, 1939, respondent's counsel in arguing these exceptions before the Commission stated that for "all intents and purposes * * * the employer-employee relationship" existed between respondent and the truckmen (R. 384). The Commission's report, accepting respondent's argument, stated (R. 393):

> That it was the intention of the parties that applicant assume all responsibility to the general public for the operation of the vehicles cannot be doubted. It is also clear that applicant's own employees directed the movement of the vehicles and caused the drivers thereof to comply with such company rules as would insure efficient operation. * * *
>
> * * * * *
>
> * * * The owner-operators, as indicated by the testimony provided by one in applicant's service continuously since prior to

June 1, 1935, looked to applicant's direct employees for instructions; they did not deal with the shipping public; they did not conduct motor-carrier operations on their own behalf; they did not hold themselves out to render services except for applicant and as directed by its employees; and they operated the equipment in continuous service for such trips and at such intervals as directed by applicant.

The taxes assessed.—Respondent did not file tax returns for the truckmen or their helpers. The Commissioner thereupon executed amended returns for respondent pursuant to I. R. C. sec. 3612 (R. 23).

In breaking down the payments to truckmen between wages and sums paid for use of equipment, the Commissioner used the Union wage scale in determining wages (R. 25–26). The total wages of the helpers, whose number and identity were unknown, were determined to be 41.67% of the wages paid the truckmen (R. 26). These determinations were based on a prior agreement between the Collector of Internal Revenue and respondent's treasurer in charge of the matter under which it was agreed that the allocation was "fair" and the figures used were "correct", although respondent's officer acknowledged no liability (R. 141). The assessments were made on the basis of the wages so allocated (R. 25–26).

The cases were consolidated and tried to the court without a jury. The district court held that

the truckmen were not employees but independent contractors (R. 222), and that the helpers were also not employees of respondent but employees of the truckmen (R. 226). It was further held that the determination of the amounts of taxable wages was arbitrary and illegal (R. 224). Judgment was entered for the respondent (R. 228–230). On appeal the circuit court of appeals affirmed (R. 259).

SPECIFICATION OF ERRORS TO BE URGED

1. The Circuit Court of Appeals erred in failing to hold that the persons in question were employees of the respondent and that it was liable for the social security taxes in question.

2. The Circuit Court of Appeals erred in failing to look to the purposes of the Social Security Act and to consider the economic facts of the relationship between the parties in holding and determining that the truckmen and their helpers were not employees of the respondent within the meaning of the Act.

3. The Circuit Court of Appeals erred in its application of the common law test of master and servant in determining that the control of the truckmen over the number and identity of the helpers used in their operations was conclusive proof that they were not employees of the respondent.

4. The Circuit Court of Appeals erred in holding that the Commissioner's assessments and de-

terminations of amounts of taxable wages of the truckmen and helpers were arbitrary.

SUMMARY OF ARGUMENT

I

It is our position that for the reasons set forth in the brief for the United States in *United States* v. *Silk*, No. 312, pp. 14–44, "employment" in the Social Security Act should be construed to reach persons on the periphery of the common law relationship who earn their living in the service of another's business and are subject to the hazards of unemployment. The men whose status is here involved fall within that class and should be given the benefits which the Act was intended to provide.

II

In any event, under any conventional concept of the term "employee", the persons in question were within the coverage of the Act. In tort cases courts emphasize the control factor under which a person is an employee if the employer has a right to control the means and manner of performing the services. The employment contract here, as in *Singer Manufacturing Co.* v. *Rahn*, 132 U. S. 518, required the truckmen to work exclusively for respondent, and explicitly bound them to "comply with all the rules and regulations and instructions of the Company" (R. 266). In fact the truckmen operated as an integral part

of respondent's business; they were subjected to the daily orders of respondent's dispatcher and could not pick up and load without his approval. The contracts were terminable at will. The "Manual for Truckmen" issued to the truckmen contained rules covering the details of all aspects of the men's work; it has not been suggested that respondent lacked the *right* to control the truckmen's conduct by such rules. Although the truckmen hired their own helpers they were in normal circumstances required to drive or remain personally on the trucks themselves, and were clearly not managers of an independent business enterprise. The truckmen were represented by a labor union in bargaining with respondent. Respondent itself characterized the truckmen as its employees in order to obtain from the Interstate Commerce Commission a certificate of necessity covering their operations. In view of these facts the truckmen's ownership of the vans and authority over helpers does not prevent them from being respondent's employees.

III

The determinations of the lower courts that the Collector's return and the tax assessed thereon were arbitrary and could not be sustained were clearly in error. A Collector's return based upon the best information available to him is prima facie correct. The burden of establishing its in-

correctness and the extent to which it is incorrect rests upon the respondent. Respondent introduced no evidence on the question. On the contrary, the respondent's treasurer conceded that the amounts were correct if there was any liability for a tax upon the remuneration paid to the persons in question. Thus the respondent's proof raised no issue upon which the courts could make a determination that the amount of the tax was arbitrary and erroneous.

ARGUMENT

I

THE TRUCKMEN AND THEIR HELPERS WERE EMPLOYEES OF THE RESPONDENT WITHIN THE INTENT AND PURPOSES OF THE SOCIAL SECURITY LAW

The principal questions here, like those posed in *United States v. Albert Silk*, No. 312, this Term, are: (1) what is the proper test to be applied in determining whether a person is an employee within the meaning of the Social Security Act, and the corresponding provisions of the Internal Revenue Code, and (2) how shall that test be applied to the facts of this case?

The sections whose meanings are in dispute define "employment" as "* * * any service, of whatever nature, performed * * * by an employee for his employer * * *." Sections 811 (b) and 907 (c), Social Security Act, Ap-

pendix, *infra*.[12] The respondent successfully contended in the courts below that the services performed by the truckmen were not services performed by employees for their employer because they were services performed by independent contractors.[13] (R. 227, 258.) Thus the crucial word is "employee"; and its meaning is the test by which the facts of the case must be measured.

As appears from the Government's brief in the *Silk* case, pp. 14, *et seq.*, the term "employee" is not a word of art with an exact meaning, and its Congressional meaning has varied with the circumstances under which it has been used. *National Labor Relations Board* v. *Hearst Publications*, 322 U. S. 111, 120–121; *United States* v. *American Trucking Ass'ns*, 310 U. S. 534, 544–548. Where this Court has been required to determine its meaning without aid of a statutory definition, as is the case here, it has always looked to the objectives intended to be reached by the particular statute. Like the National Labor Relations Act and the Fair Labor Standards Act, the remedial purposes of the Social Security Act were directed towards that class of persons who earn their living

[12] Because of changes made in the Social Security Act Amendments of 1939, c. 666, 53 Stat. 1360, beginning with 1940 the term "employment" included "any service, of whatever nature, performed * * * by an employee for the person employing him. * * *." Sections 1426 (b) and 1607 (c), Internal Revenue Code.

[13] The controversy with respect to the helpers is confined to whose employees they were. The District Court held they were employees of the truckmen, because the latter were independent contractors. (R. 227.)

in the regular course of another's business and who are subject to the hazards of unemployment, the social and economic effects of which the Act was intended to alleviate. *Steward Machine Co.* v. *Davis*, 301 U. S. 548; *Helvering* v. *Davis*, 301 U. S. 619. It was this class of persons which Congress had in mind when it used the term "employee". Cf. *Grace* v. *Magruder*, 148 F. 2d 679 (App. D. C.), certiorari denied, 326 U. S. 720; *United States* v. *Vogue, Inc.*, 145 F. 2d 609 (C. C. A. 4). The test we believe to be proper is set forth in the *Silk* brief and will not be repeated here.

If, as we believe, Congress intended the term "employee" to encompass persons in the borderland between the servant and the independent contractor whose living is earned performing services in the regular course of another's business, on the undisputed facts of the case the truckmen clearly would be employees of the respondent. From the record it is seen that the respondent is engaged in a nation-wide business of moving furniture—and certain other goods—in thirty-eight states and parts of Canada (R. 219). All business is done under its own name; the contracts are made in each instance, directly with the shipper for the carriage of his goods (R. 270). All equipment used in its service bears only its name and is painted its particular design and color. (R. 106, 158, 265.) Its charges are all based on tariffs

established and filed by it with the Interstate Commerce Commission (R. 139, 161–162). It operates only by virtue of a certificate of public convenience and necessity issued to it and it must observe such reasonable rules and regulations as may be established by the Interstate Commerce Commission for the protection of this public interest (R. 219). Part II, Interstate Commerce Act, c. 498, 48 Stat. 543, as amended by the Act of September 18, 1940, c. 722, 54 Stat. 919, Title I, Section 15; *Greyvan Lines, Inc., Common Carrier Application*, 32 M. C. C. 719. The respondent maintains a staff of salesmen and estimators and a system of dispatching the vans, and it is the duty of the dispatcher to select vehicles for all shipments and to direct their movements. (R. 135–136, 145, 225, 341–368.)

It is into this business that the respondent has fitted the services of the truckmen and helpers in question. The exclusive use of their trucks rested with the respondent, and they could do no hauling for any other person or carry any goods in their own name even though they developed the business. (R. 110, 265–266, 270.) They could not even haul for respondent without getting approval in advance of each shipment from respondent's dispatcher. No part of the business belonged to the truckmen. They were completely absorbed into the organization of the respondent, and, if they had any identity in this particular field before hiring themselves and their trucks to the

respondent, they lost it immediately upon entering its employ. Aside from the monetary compensation received for their services they gained nothing by their efforts. Since the respondent, rather than the truckmen, had the required certificates from the Interstate Commerce Commission and the States, there were substantial legal obstacles to the truckmen engaging in an independent business of their own apart from the respondent. All goodwill and other things of lasting business value inured to the respondent and if it saw fit to sever the relationship, as it could when it chose, the truckmen—even though they did not dispose of their trucks (R. 118)—in common parlance, were unemployed men looking for a job. The fact that the truckmen had a considerable investment in the vans and equipment, which in some circumstances might indicate their independence, is outweighed by the other factors to which we have referred.

If to these facts are added those summarized in Point III, *infra*, we submit that there can be no question as to the truckmen's status as employees.

II

THE TRUCKMEN AND THEIR HELPERS ARE "EMPLOYEES" OF THE RESPONDENT WITHIN ANY GENERALLY ACCEPTED MEANING OF THE TERM

As we have shown above the truckmen and their helpers are clearly employees within the intent and purposes of the Social Security laws. The

Singer Manufacturing Co. v. *Rahn,* 132 U. S. 18. See also: *Railroad Co.* v. *Hanning,* 15 Wall. ; *Casement* v. *Brown,* 148 U. S. 615. The basis in this test is upon the right to exercise ol rather than upon the control exercised in Cf. Treasury Regulations 90, Article 205, lix, *infra;* Restatement of Agency, Section

apart from the "Manual for Truck- facts outlined in the Statement, which epeat, demonstrate that the truckmen ent's employees under any test. The an integral part of respondent's e subject to the day-to-day orders dispatcher to whom their every be reported. Under the con- exclusively for respondent and spondent's rules, regulations e contracts were subject to without cause. The truck- load without obtaining re- l. All dealings with the 's name. Except where mission, the truckman the truck himself or . *Supra,* p. 5 (R. for "satisfactory" sonal appearance 73). The truck- a union affiliated with

the American Federation of Labor in bargaining and contracting with respondent; the union agreement specifically indicated (R. 369) that the truckmen were to be subject to the protection of the National Labor Relations Act, which, like the Social Security Act, applies only to "employees". If the truckmen had been independent entrepreneurs and not employees, such collective action on their part to fix rates might have violated the antitrust laws. Cf. *Columbia River Packers Association* v. *Hinton*, 315 U. S. 143.

That respondent had no reluctance to characterize its relationship to the truckmen as one of employment appears from its argument to that effect (quoted *supra*, p. 22) before the Interstate Commerce Commission in support of its application for a certificate of convenience and necessity. At the time these statements were made they were directed towards establishing a vital element without which its application for grandfather rights might fail, for it was the Commission's position that "if the owner-drivers were independent contractors, applicant, of course, could not be a 'motor carrier' in respect of operations conducted by them".[14] *Interstate Dispatch*,

[14] It is immaterial for present purposes whether the dividing line between an independent contractor and an employee under the Motor Carrier Act is as a matter of law the same as that ordinarily applied at common law. Cf. *Thomson* v. *United States*, 321 U. S. 19. It is sufficient that respondent thought the test was the same when it sought to get a certificate from the Interstate Commerce Commission.

Inc., Common Carrier Application, 30 M. C. C. 763, 767; *Allied Van Lines, Inc., Common Carrier Application*, 46 M. C. C. 159, 190. See also *Acme Fast Freight v. United States*, 30 F. Supp. 968, 972 (S. D. N. Y.), affirmed *per curiam*, 309 U. S. 638; *Dixie Ohio Exp. Co., Common Carrier Application*, 17 M. C. C. 735. This was the test applied by the Commission in granting respondent's application. 32 M. C. C. 719, 723–724 (R. 393–394).[15]

[15] It is to be noted that in *Thomson v. United States*, 321 U. S. 19, the Court, in holding that a railroad which had made arrangements with truckmen similar to those here involved was entitled to a certificate, stated "The operators are 'independent' only by grace of contract nomenclature." 321 U. S. at 25. The Commission has since construed the *Thomson* decision as not inconsistent with the principle previously upheld by the Court in *Acme Fast Freight, Inc. v. United States*, 309 U. S. 638, affirming, *per curiam*, 30 F. Supp. 968, that "in order for one to be a common carrier by motor vehicle within the meaning of section 203 (a) (14) of the Interstate Commerce Act he must have direction and control of the motor vehicles which do the carrying for him while they are doing it, and must be responsible to both the shipper and the general public for such operation." *Railway Express Agency, Inc. Extension—Waggoner, Ill.*, 44 M. C. C. 1, 3. (In the *Acme* case the district court had indicated that the definition in the Motor Carrier Act reached only a carrier which "operates *in propria persona* or through its agents and not through independent contractors." (30 F. Supp. at 972)). Subsequently, in *Allied Van Lines, Inc. Common Carrier Application*, 46 M. C. C. 159, 190, 197 (1946), the Commission referred to its *Greyvan* decision as follows: "These vehicles were used exclusively in its service under a contract which subjected the vehicle and its owner to the control of the company. The owner was required personally to drive the vehicle unless Greyvan gave permission for the use of a substitute driver." The report further stated: "We

Furthermore, the respondent secured identification plates from the Interstate Commerce Commission and used them on the owner-driven trucks (R. 224), under regulations which provide that "an identification plate shall be displayed only upon motor vehicles operated by and under the control, supervision, and responsibility of the motor carrier to whom such plate be issued", Rules and Regulations Governing the Display of Identification Plates by Motor Carriers Subject to the Motor Carrier Act, 1935 (2 Fed. Register (1937), part 1, pp. 1066–1067).

The "Manual for Truckmen" is thus not essential to the Government's position. We think that the courts below clearly erred, however, in disregarding it, for two reasons. In the first place the undisputed evidence shows that in 1940 respondent gave the Manual to all truckmen (R. 141, 171). The opening section of the Manual stated without equivocation that (R. 281):

> Truckmen's duties are prescribed by the rules herein contained and such additional orders as may be hereafter issued by the

---

believe that we have followed the principles of *Thomson* v. *United States*, *supra*, in the present case by applying a 'realistic test' rather than a formal test of 'contract nomenclature,' in deciding who are the parties engaged in transporting." In this state of the authorities, it appears that both before and since its decision on Greyvan's application, the Commission has construed the Motor Carrier Act as not permitting the issuance of a certificate where an applicant used independent contractors for performing its transportation service.

> General Office. If in doubt as to the meaning of any rule, the driver should immediately apply to the nearest office for explanation. Ignorance of the law or of any rule of the Company will not be accepted as an excuse.
>
> * * * This book contains the fundamental rules. When changes in the instructions outlined in this manual are necessary, they will be issued by the General Office to all drivers. The changes will be accompanied by instructions as to where they are to be placed in the manual.

Respondent's witness conceded that the truckmen were "never notified [that] they were not obliged to follow the Manual" (R. 171). With these facts undisputed, we think that respondent is in no position to assert that the Manual did not to a large extent actually control the conduct of its drivers in accordance with the detailed instructions contained therein—even though respondent thought the Manual impractical and as a matter of unannounced policy did not enforce it (R. 171), and even though some (R. 104) but not all (R. 185–186) truckmen may not have treated it as binding in all respects.

In the second place and more significantly—even if we assume *arguendo* that respondent is correct in the contention that the Manual is not to be taken as manifesting *actual* control—the Manual demonstrates that respondent had the *right of control* over the details of the truckmen's

work. For respondent has not suggested that the Manual was not a lawful exercise of its rights under the contract to issue "rules and regulations and instructions" (R. 266) with which the truckmen were obligated to comply. Indeed its counsel indicated the contrary (R. 182, quoted *supra*, pp. 4-5, n. 3). The crucial fact which this evidence establishes is the extent to which the employment relationship between the parties contemplated the right of the company to control the performance of the services; for the test is not how much control was exercised in fact but how much control did the company have the right to exercise. See authorities cited *supra*, p. 32. There is nothing in the record or the findings or the opinion below or in respondent's argument which questions the right of the company to prescribe such detailed instructions.[16]

If the Manual is pertinent on either of the above theories, it eliminates all question as to

[16] Besides clearly showing the extent to which the employment contract contemplated detailed control of the truckmen by the respondent, the "Manual for Truckmen" serves another valuable purpose. It gives to the Court in condensed form the clearest picture of the respondent's business, its mechanics and the nature of the problems which arise in its day to day operations. It shows a business which exalts details, in which the manner of performing the transportation service is as important as the transportation itself. One cannot read the Manual and thereafter suppose that it would be possible for the respondent to operate such a business in this manner without retaining the ultimate right to control the truckmen and their helpers in the performance of their services.

the scope of respondent's control or right to control the truckmen's activities in great detail. It is sufficient to say that the instructions issued to the truckmen in the "Manual" were so all-inclusive as to extend to such personal details as their mode of dress, their personal cleanliness, and even their domestic tranquility (R. 283). It is difficult to conceive of greater rights of control over the means and manner of performing services than to be able to require that they be performed in clothing of a particular combination of colors, with a clean shaven face and a carefree mind.

Respondent argues (Br. in Opp. p. 9) that because the drivers operate throughout the country detailed control by the company over their activities is impossible. This, of course, would be equally true as to drivers who do not own their trucks, whose employee status is unquestioned. Here there was as much control as the nature of the business permitted or required, and that is all that is necessary to establish an employment relationship. See *Silk* brief, pp. 49, 54.

In *Singer Manufacturing Co.* v. *Rahn*, 132 U. S. 518, this Court found an employment relationship by reason of the rights reserved in the employment contract. The contract in that case was very similar to that shown here, except for the fact that the *Singer* case involved a horse and wagon instead of a truck. The reputed employee in the *Singer* case was a salesman getting

about by means of a horse and wagon selling sewing machines on the basis of a percentage of the price received by the company. The wagon was furnished by the company, but the horse and harness were his, to be used exclusively in canvassing for the sale of said machines and the general prosecution of said business." The salesman agreed "to give his exclusive time and best energies to said business, and to pay all expenses attending same"; he was to forfeit his commissions under the contract if, while it was in force, he sold any machines other than those furnished him by the company; and he agreed "to employ himself under the direction of the said Singer Manufacturing Company, and *under such rules and instructions as it or its manager at Minneapolis shall prescribe.*" The company could discharge him by terminating the contract at any time. *Singer Manufacturing Co.* v. *Rahn,* 132 U. S., at 519, 523.

When the contract here (R. 265–271) is compared we find all of those elements present, in addition to the fact that here the driver could not enter into a contract with a customer without first obtaining company approval. Here too the truckman was to "devote said motortruck or trucks exclusively to the services of the Company in its transportation of goods, wares, and merchandise * * *; and in connection therewith comply with all the rules and regulations and instructions of the Company."

In the *Singer* case it was pointed out by the Court (p. 523) that the right of control reserved by the contract was so broad as to make the salesman subject to any direction by the company, even including such details as the route to take or the speed to drive although no such directions were shown to have been given.

It can hardly be doubted that the same breadth of control which existed in the *Singer* case exists here, even if we confine ourselves to the terms of the contract and disregard the supporting evidence, summarized in the Statement, which clearly establishes that the parties contemplated that the truckmen and their helpers should be completely subservient to the wishes of the respondent. Although here no control was actually exercised over routes, there can be no doubt, in view of the contractual requirement that the drivers "comply with all * * * instructions of the Company" that respondent had authority to control the drivers in that respect if it wished to do so. Clearly it exercised its right of control over many more details of the work than the employer in the *Singer* case.

From the terms of the contract, the interpretation placed thereon by respondent's "Manual for Truckmen", the evidence of control exercised and the statements of respondent concerning its right of control, it is evident that the respondent had that direct and plenary right of control which characterizes the employer-employee relationship

at common law. *Singer Manufacturing Co.* v. *Rahn, supra.* To this may be added that indirect—though hardly less complete—right of control stemming from the respondent's right to discharge the truckmen without liability. Many courts have said,[17] where a man is performing personal services in the regular course of another's business, that such a right is substantially equivalent to the right to direct the details of performing the services. Such a right excludes that "liberty of action" (*Metcalf & Eddy* v. *Mitchell,* 269 U. S. 514, 521) which typifies the independent contractor. See *Silk* brief, pp. 28–30, 50–51. The truckmen clearly were not the managers of an independent business enterprise. That they were primarily truck drivers, not entrepreneurs, is shown by respondent's requirement that in normal circumstances they must either drive or remain on the truck personally. *Supra,* p. 5.

As against the existence of all of the elements of the employment relationship heretofore described is the fact that the truckmen owned and maintained their trucks and hired their own helpers. Clearly these facts do not outweigh the factors to which we have referred. Nor do they as a matter of law negate the existence of employ-

[17] *Messmer* v. *Bell & Coggeshall Co.,* 133 Ky. 19; *Cockran* v. *Rice,* 26 S. Dak. 393; *Maltz* v. *Jackoway-Katz Cap Co.,* 336 Mo. 1000; *Irvan* v. *Bounds,* 205 Ark. 752; *Industrial Com.* v. *Bonfils,* 78 Colo. 306; *Burruss* v. *B. M. C. Logging Co.,* 38 N. M. 254.

ment. That ownership of a motor vehicle does not have any such effect appears from the cases cited in our *Silk* brief (pp. 53–54).

The court below thought the right of the truckmen to determine what helpers, if any, they would use was the "vital" factor (R. 258). That single factor, however, cannot be sufficient to overcome the weight of all the other facts shown by the record—particularly in the light of the detailed rules laid down in the Manual with respect to the hiring of helpers (R. 309). See pp. 19–21, *supra*. Indeed, the truckmen were required by the Manual to obtain help through respondent's agent where one was present and to pay the agent rather than the helpers (R. 309).

Respondent stresses the fact that neither it nor the Commissioner had information as to the precise amount of wages paid to truckmen or their helpers. This does not prove the absence of an employment relationship, but merely that respondent thought, we believe mistakenly, that it was not subject to the Social Security Act and made no effort to comply. As the "Instructions to Truckman" (Plaintiff's Exhibit B, opposite R. 275) shows, respondent required the truckmen to give the names of helpers, and it would not have been difficult to require a statement of the wages paid.

Once the rights of the company with respect to controlling the truckmen have been determined, the fact that the truckmen hired the helpers is not of great consequence. It has long been held by this Court that at common law the hiring and

paying of helpers used in the performance of the services does not make an employee an independent contractor. *Railroad Co.* v. *Hanning*, 15 Wall. 649. See also *Gulf Refining Co.* v. *Brown*, 93 F. 2d 870 (C. C. A. 4); *Western Express Co.* v. *Smeltzer*, 88 F. 2d 94 (C. C. A. 6), certiorari denied, 302 U. S. 698; *Birmingham* v. *Bartels*, 157 F. 2d 295 (C. C. A. 8), certiorari granted January 6, 1947, No. 731, this Term. And a person may be the employee of another though he is paid by a third party. *Jones* v. *Goodson*, 121 F. 2d 176, 179 (C. C. A. 10), and cases cited; cf. *Williams* v. *Terminal Co.*, 315 U. S. 386; see also *United States* v. *Vogue, Inc., supra; General Wayne Inn* v. *Rothensies*, 47 F. Supp. 391 (E. D. Pa); *Willard Sugar Co.* v. *Gentsch*, 59 F. Supp. 82 (N. D. Ohio).

We submit that upon the clear evidence of the company's right to control the truckmen and their helpers as to the means and manner of performing the services these persons properly should have been held to be employees of the respondent within the common law meaning of the term "employee".[18]

[18] Respondent implies that the Government's argument suggests that there is something wrongful or unlawful about its relationship with the truckmen. Obviously it is proper and lawful for respondent, for perfectly reasonable business considerations, to require its truckers to own their trucks. We contend only that such a device does not deprive the truckmen who perform work normally that of employees in substantially the way employees would perform it, of the protection the Social Security Act accords to employees.

III

THE TAX WAS NOT ILLEGAL AS BEING AN ARBITRARY SUM ARBITRARILY DETERMINED

The term wages is defined in Section 811 (a) of the Social Security Act (Appendix, *infra*) as "all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash". We have shown that the truckmen and their helpers were employees of the respondent and their services clearly were not performed gratuitously. Thus under the broad statutory definition, what these men received as compensation for their services (as distinct from payment for the trucks) was wages which should have been returned and upon which a tax should have been paid. The respondent having failed to make such a return or keep records of such wages, the Collector made up returns upon such information as was available and a tax was assessed. (R. 22–93, 226–227.) The trial court found that such action on the part of the Collector was arbitrary, and the appellate court agreed. (R. 226–227, 259.)

Since the taxpayer paid wages for employment it was its duty under the law to report such wages and pay the resulting tax. Sections 801, 802, and 804, Social Security Act, Appendix, *infra*. The taxpayer having failed to do so, the Collector was empowered to make up returns upon his own knowledge or from such information as he could

obtain through testimony or otherwise. Such returns are "prima facie good and sufficient for all legal purposes". Section 3612, Internal Revenue Code (26 U. S. C. 1940 ed., Sec. 3612, Appendix, *infra*, pp. 52–53).

There is no principle of tax law better settled than that the burden of proof rests upon a taxpayer to establish that an assessment is erroneous. *Reinecke* v. *Spalding*, 280 U. S. 227, 232–233; *Wickwire* v. *Reinecke*, 275 U. S. 101, 105; *United States* v. *Anderson*, 269 U. S. 422, 443. And this burden is not sustained except by establishing all the facts necessary to a correct determination of the tax. *Burnet* v. *Houston*, 283 U. S. 223, 227–228; *Reinecke* v. *Spalding*, *supra*; *United States* v. *Anderson*, *supra*.

Section 3612, as we have seen, contains a specific provision that the Commissioner's returns are to be prima facie sufficient. Many cases have held that this imposes upon the taxpayer the burden of introducing evidence indicating the incorrectness of the assessment. See *Paschal* v. *Blieden*, 127 F. 2d 398, 401 (C. C. A. 8), and cases therein cited, in which the court said, quoting from an earlier decision, "that the assessment of a tax by the revenue officers is presumptively correct, 'and their action stands as prima facie correct until this presumption, by countervailing proof, is met and overthrown by the party assessed' ". Here the respondent introduced no

evidence whatsoever to overcome the prima facie effect of the assessment.[19]

On the contrary, respondent's treasurer admitted that the Commissioner's figures were fair. Since there seems to be some dispute as to this (Br. in Opp., p. 16), we quote the entire colloquy on the point (R. 141):

> Q. Now, with reference to the computation of this Social Security tax, you were in charge of the negotiations with the representatives of the Collector's office concerning that matter, were you not?
>
> A. Yes, sir.
>
> Q. And did you agree to the computations by the Collectors as to the amounts that were determined by them?
>
> A. I agreed that the figures they have set out is a fair figure but acknowledged no liability for the company.
>
> Q. In other words you agreed that if the truckmen were employees, the figures that they used were correct?
>
> A. That is correct.

[19] Although respondent's position as to the arbitrary nature of the amount of the assessment is not clear, it seems that their brief in opposition suggests at one point (pp. 16–17) that the assessment was arbitrary only because the persons in question were not employees, which assumes the point at issue in the case on the merits. The brief in opposition there states "we introduced no evidence as to the correctness or incorrectness of the computations but content ourselves on the proposition that there was no wage paid, and there is no tax payable because the truckmen were not employees within the meaning of the Social Security Act."

Q. So that there is no controversy about the amount of the wages mentioned by the collector?

A. No, sir.

Mr. BENOY. Well, I will object to that. You can't very well make a wage where none existed.

The COURT. I will draw the conclusion whether it is a wage or not.

It is true that the effort made by the Collector—for the respondent has presented nothing—was based upon his best approximation of the amounts of compensation which should be allocated to wages and included his best estimate of the amounts paid to helpers. The assessment for the drivers at the union wage scale for employed drivers (R. 25) was not unreasonable in the absence of other evidence; it probably was too low, but respondent is not complaining of that. The basis for the assessment for the helpers does not appear, although in view of respondent's treasurer's acceptance of it it could not have been unreasonable, even though it might have been imprecise. The exact basis for computing taxes is often impossible to determine and reasonable computations and approximations are acceptable. *Utah Power & L. Co.* v. *Pfost*, 286 U. S. 165, 190; *Burnet* v. *Niagara Brewing Co.*, 282 U. S. 648, 655; *United States* v. *Ludey*, 274 U. S. 295, 302. If the respondent had felt the approximation was at fault he was at full liberty to offer his figures and to establish such facts as would sup-

port their reasonableness. This the respondent has not done, but instead has conceded that the amounts determined were "fair" and that if the truckmen were employees the figures used were "correct." (R. 141.)

Since the respondent's proof has made no issue of the amounts involved and, if it is an issue, has advanced no evidence to show the correct amount of the liability, the courts below were in error in determining the assessments were arbitrary and, presumably, erroneous and illegal. *Burnet* v. *Houston, supra; Reinecke* v. *Spalding, supra; Wickwire* v. *Reinecke, supra; United States* v. *Anderson, supra.*

CONCLUSION

The decision below was in error and should be reversed.

Respectfully submitted.

GEORGE T. WASHINGTON,
Acting Solicitor General.
SEWALL KEY,
Acting Assistant Attorney General.
ROBERT L. STERN,
LYLE M. TURNER,
Special Assistants to the Attorney General.

FEBRUARY 1947.

APPENDIX

Social Security Act, c. 531, 49 Stat. 620:

TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

* * * * *

(42 U. S. C. 1940 ed., Sec. 1001.)

SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

* * * * *

(42 U. S. C. 1940 ed., Sec. 1002.)

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ,

equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

* * * * *

(42 U. S. C. 1940 ed., Sec. 1004.)

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

* * * * *

(42 U. S. C. 1940 ed., Sec. 1011.)

TITLE IX—TAX ON EMPLOYERS OF EIGHT OR MORE

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

* * * * *

(42 U. S. C. 1940 ed., Sec. 1101.)

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

* * * * *

(42 U. S. C. 1940 ed., Sec. 1107.)

Similar provisions appear in Sections 1400 (1) and (2), 1401 (a) and (b), 1410 (1) and (2), 1426 (a), (b), and (f), 1600 and 1607 of the Internal Revenue Code.

Internal Revenue Code (26 U. S. C.)

§ 3612. Returns executed by Commissioner or collector—(a) Authority of collector.—If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) Authority of Commissioner.—In any such case the Commissioner may, from his own knowledge and from such information

as he can obtain through testimony or otherwise—

(1) To make return.—Make a return, or

(2) To amend collector's return.—Amend any return made by a collector or deputy collector.

(c) Legal status of returns.—Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

Treasury Regulations 90, promulgated under Title IX of the Social Security Act:

ART. 205. *Employed individuals.*—An individual is in the employ of another within the meaning of the Act if he performs services in an employment as defined in section 907 (c). However, the relationship between the individual who performs such services and the person for whom such services are rendered must, as to those services, be the legal relationship of employer and employee. The Act makes no distinction between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees within the meaning of the Act.

The words "employ", "employer", and "employee", as used in this article, are to be taken in their ordinary meaning. An employer, however, may be an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. An employer may be a person acting in a fiduciary capacity or on behalf of another, such as a guardian, com-

mittee, trustee, executor or administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, or conservator.

Whether the relationship of employer and employee exists, will in doubtful cases be determined upon an examination of the particular facts of each case.

Generally the relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor, not an employee.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if two indi-

viduals in fact stand in the relation of employer and employee to each other, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

Individuals performing services as independent contractors are not employees. Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

An officer of a corporation is an employee of the corporation, but a director, as such, is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

* * * * * *

ART. 207. *Wages.*—The term "wages" means all remuneration for employment, whether payable in money or something other than money. The name by which such remuneration is designated is immaterial. Thus, salaries, commissions on sales or on insurance premiums, fees, and bonuses are wages within the meaning of the Act if payable by an employer to his employee as compensation for services not excepted by the Act. The basis upon which the remuneration is payable, the amount of re-

muneration, and the time of payment, are immaterial in determining whether the remuneration constitutes "wages." Thus, it may be payable on the basis of piecework, or a percentage of profits; and it may be payable hourly, daily, weekly, monthly, or annually.

The medium in which the remuneration is payable is also immaterial. It may be payable in cash or in something other than cash, such as goods, lodging, food, and clothing.

* * * * *

Sections 402.204 and 402.227, Treasury Regulations 106, promulgated under the Federal Insurance Contributions Act, Sections 403.204 and 403.227, Treasury Regulations 107, promulgated under the Federal Unemployment Tax Act and Articles 3 and 14, Treasury Regulations 91, promulgated under Title VIII of the Social Security Act, are substantially the same as the above sections.

U. S. GOVERNMENT PRINTING OFFICE: 1947

FILE COPY

Supreme Court of the United States

OCTOBER TERM, 1946.

No. 673.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,
Petitioner,

vs.

GREYVAN LINES, INC.

BRIEF FOR PLAINTIFF-APPELLEE OPPOSING PETITION FOR WRIT OF CERTIORARI.

WILBUR E. BENOY,
ARTHUR M. SEBASTIAN,
50 W. Broad St., Columbus 15, Ohio,
ROBERT DRISCOLL,
GEORGE T. CHRISTIE,
2737 Board of Trade Bldg., Chicago, Ill.,
Attorneys for Plaintiff.

MIDWEST LAW PRINTERS AND PUBLISHERS, INC., Columbus 15, Ohio

INDEX.

Statement of case	2
Questions presented	2
Argument	4
Relationship of employer and employee did not exist	4
The contract truckmen arrangement	5
Agreement is indivisible	6
History and reasons for the independent contract	7
The Government's statement	11
Answer to Government's petition	13
Assessments were arbitrarily made	14
The false issue of control	17
The manual for truckmen	19
History of the act dispels any construction that plaintiff is taxable with respect to any part of the payments made to its independent contractors; or with respect to the wages paid by the independent contractors to their helpers whom they hired, paid and fired	23
No reasons shown why this case should be ordered certified under Section 38, Rule 5(B)	27

List of applicable cases 27
Transportation cases 27
Decisions by Circuit Court of Appeals involving unemployment and social security and similar acts 28
Decisions by District Courts involving unemployment and social security and similar acts 28
Decisions under state unemployment acts 30
Regulations of treasury department 31

Cases and Authorities Cited.

American Federation of Labor v. Swing, et al., 312 U. S., 321 11
American Ins. Co. v. Scheufler, 129 F. (2d), 143 3
Bereth v. Sparks, 51 F. (2d), 441 3
Buckstaff Bathhouse Co. v. McKinley, 308 U. S., 358 24
Commercial Motor Freight, Inc. v. Enright, 143 O. S., 127 14
Gary Theatre Corp. v. Col. Picture Corp., 120 F. (2d), 881 3
Jones v. Goodson, 121 F. (2d), 476 24
Los Angeles Athletic Club v. U. S., 54 F. Supp., 702, 706 18
Mutual Trucking Co. v. U. S., 141 F. (2d), 655 ..... 10, 32
National Labor Relations Board v. Hearst Publications, 322 U. S., 111 ..... 18, 31
Norwegian Nitrogen Products Co. v. U. S., 288 U. S., 294 26

Pick Manufacturing Co. v. General Motors Corp., 299 U. S., 3 3
Radio City Music Hall Corp. v. U. S., 135 F. (2d), 715, 718 ..... 18, 21, 31
Schatz v. Pollock Woolen Co. v. Murphy, 348 Ill., 218 18
Standard Oil Co. v. Glenn, 52 F. Supp., 755, 148 F. (2d), 51 21
Steward Machine Co. v. Davis, 301 U. S., 588 24
Texas Co. v. Higgins, 118 F. (2d), 636 32
Thompson v. U. S., 321 U. S., 19 12
U. S. Code, Title 28, Sec. 391 3
U. S. v. Commercial Credit Co., 286 U. S., 63 3
U. S. v. Davis, 154 F. (2d), 314 21
U. S. v. Rosenbloom Truck Lines, 315 U. S., 50 12
Walling v. American Needlecrafts, 139 F. (2d), 60 .. 30
Walling v. Rutherford Food Corp., 156 F. (2d), 513 18
Williams v. U. S., 126 Fed. (2d), 129 ..... 19, 21

Supreme Court of the United States

OCTOBER TERM, 1946.

No. 673.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,

Petitioner,

vs.

GREYVAN LINES, INC.

BRIEF FOR PLAINTIFF-APPELLEE OPPOSING PETITION FOR WRIT OF CERTIORARI.

Greyvan Lines, Inc., submits this brief in opposition to the petition for a writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. The opinion of that court is reported 156 F. (2d), 412. Emphasis is ours unless otherwise noted.

STATEMENT OF THE CASE.

The case is as well stated in the "Findings of Facts" (R., 219) as we could possibly restate it; especially with regard to the method of operation of the company's business (R., 219 et seq.) and the method of arriving at the arbitrary assessments. (R., 223, 226.)

During the times involved in the assessment period (January, 1937, through first quarter of 1942 (R., 220)) plaintiff was an "employer" within the meaning of the Social Security Acts of Congress and duly paid assessments levied on all of its employees. The amended and supplemental returns (enforced returns) (R., 28-62) are with respect to its "truckmen" who operated on an independent contractors system (R., 139), whose names are specified (R., 45-93) and of certain persons employed by such truckmen, whose names were unascertainable (R., 137) but are lumped in the enforced returns under the word "Dummy". (R., 62.)

QUESTIONS PRESENTED.

1. Question 1 is well stated, but question 2 is not accurately stated. (Pet., p. 2.)

The entire case hinges upon the point as to whether or not the **"truckmen"** were **"employed"** by plaintiff for a **"wage"** within the meaning of the Social Security Acts which provide that there shall be "levied, collected and paid upon the income of every **individual** a tax equal to the following percentages of the **wages** received by him . . . with respect to **employment**." (See Government's Appendix, p. 14.)

The simple point involved in the case and decided correctly by the District Court is: There was no employment involved, no wages were paid, and the act had no application whatsoever. The question of "control" so vigorously discussed in the Government's petition (p. 10) has no application to the case. (Findings, R., 226, 227.)

As we see it, the issue is simple and the case can be disposed of on the findings of fact (R., 219) of the District Court. Section 52 (a) of the Federal Rules of Procedure provides:

> "Findings of fact shall not be set aside unless **clearly erroneous** and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses."
>
> **American Ins. Co. v. Scheufler**, 129 F. (2d), 143.

Judgments may be reversed only for errors affecting substantial rights of the party.

U. S. Code, Title 28, Sec. 391.

Findings of fact may not be interfered with when based on substantial evidence.

Bereth v. Sparks, 51 F. (2d), 441;
Gary Theatre Corp. v. Col. Picture Corp., 120 F. (2d), 881.

Under the established rule, this court accepts the findings in which two courts concur, **unless clear error is shown.**

Pick Manufacturing Co. v. General Motors Corp., 299 U. S., 3, 81 L. Ed., 4;
United States v. Commercial Credit Co., 286 U. S., 63, 76 L. Ed., 978.

ARGUMENT.

Relationship of Employer and Employee Did Not Exist.

We submit that the evidence in this case fully established the following propositions and warranted the District Court in rendering judgment for the plaintiff.

(1) Greyvan was not an employer of the persons with respect to whom the additional tax was assessed;

(2) The contract truckmen were not in the employ of Greyvan;

(3) Greyvan paid the contract truckmen **no wage**; but did pay the contract truckmen a prearranged, entire and indivisible payment for a completed transportation service; the contract truckmen furnishing the motor vehicle and equipment, costing when new approximately $5,000.00, paying the entire expense of the investment and the expense of maintenance and operation, and hiring, paying, and discharging the necessary labor to operate the motor vehicle equipment and the loading and unloading thereof;

(4) Independent contractors are not taxed; and no statutory authority is provided whereby the collector is authorized to renegotiate for the parties an entirely new and different contract and to segregate from the entire and indivisible payments made to the truckmen for the completed transportation service so contracted for, any portion (be it correct or incorrect) and to "judicially determine" such segregated portion to be "wages."

The Contract Truckmen Arrangement.

The evidence has shown performance of the independent contract. The relationship created was contractual and does not arise from tort.

The contract truckman provides all of the equipment, together with necessary pads, etc., required in the transportation which he undertakes. The truckman is obliged to hire (and fires) any assistants required in the transportation, loading, unloading and delivery of shipments, and such employees are under his sole direction and control. He furnishes, at his own expense, all packing and crating materials; public liability and property damage insurance upon his motor trucks, which insurance must cover jointly the liability of the company and the truckman "as their respective interests may appear"; provides a fidelity bond covering himself and his substitute drivers in the penalty of $1000.00 to cover any default in accounting for freight charges collected; must make a cash deposit of $250.00 with the company to secure payment of damage claims for which he is liable and payment of amounts charged to his account on his direction and order, including gasoline purchased on credit cards; must account to the company for the cost of any or all loss or damage to the goods, wares or merchandise occurring while the same are in his custody, possession or control, other than such as are covered by cargo insurance provided by Greyvan. The company may charge to his account any loss, damage or expense which it may sustain because of his acts, and he agrees to indemnify the company therefrom; he agrees to keep his motor equip-

ment in good mechanical and proper operating condition at all times, and to keep it clean. He pays the cost of operation of said motor equipment, including property taxes, resident vehicle license, oil, fuel, tires, repairs, and all other costs incident to his ownership or operation; agrees to comply with all federal and state laws and regulations and the ordinances of each and every city, village and municipality where the trucks may be operated, and the rules and regulations of any governmental agencies having jurisdiction over the highway, including licensing, speed, etc., laws. He pays his own fines for any violation of laws for which he is responsible.

Agreement Is Indivisible.

The agreement is indivisible. While it necessarily requires his personal service or that of an authorized substitute, in order to perform the agreement, yet no specific sum is set apart for his labor in connection therewith. A truckman who has business ability can make far more in the performance of this contract than he could if he were employed on a wage under a contract of hire. The truckmen engaged by this company do make more than their employees under contract of hire make. He makes a profit, the same as if the independent contractor were engaged in the execution of an independent contract for the construction of a house. If a contractor in the building of a house is a good manager, he will have a profit above and beyond his own labor; if he is a poor manager, he may lose money and realize nothing for his personal service involved. So with the "truckman" under this contract.

History and Reasons for the Independent Contract.

This company was using independent contractors in the transportation business long prior to the enactment of the Federal Motor Carrier Act and the Social Security Acts.

The company was organized in 1929 and independent contracts were executed by it as early as the year 1930. Singularly enough, the main reason for the adoption of the system of independent contractors was the lack of control which the company was able to exercise over an employee because of distance traveled. Hence, there was developed a system whereby the transportation could be contracted to responsible owners of equipment and the results accomplished by contract rather than by unsupervised employment.

Labor is necessary (1) in loading and unloading the goods into and out of the truck; and (2) in driving the truck from point of origin to destination. Under the system developed the independent contractor has the option of performing this labor himself or of employing others to do it. Wherever the goods may be loaded, or unloaded, he may, if he desires, employ labor at that point for that purpose and he may only supervise and direct the loading or unloading; or, he may do part and hire the rest. The option is his. He may drive the truck himself; or he may hire someone to do it.

The company found that an independent contractor, who owned his own equipment, gave it better attention, kept it in repair, and performance was often superior to that of its employees. Consequently, it further devel-

oped a system whereby the independent contractors were rewarded for greater efficiency in performance by the payment of bonuses. The independent contractor had an opportunity to better himself far beyond what he could accomplish as an employee, and in bettering himself he promotes the interests of the company. An independent contractor, owning his own equipment, is interested in maintaining that equipment at its highest degree of excellence. Further, the more he does, the more his income. By engaging a driver, he can keep his truck moving during all the time permissible under regulations. He has no interest to dilly dally on the job since an idle truck makes him nothing, whereas an employee, in operation of company equipment, may have the opposite inclination.

Greyvan Lines, Inc., has no localized operation. It maintains no garages or terminals at any location. It operates from the homes of its customers and warehouses throughout the country, from whence it receives goods for transportation, or to which it makes delivery. Its operations cover thirty-eight states and the District of Columbia. The company may, for example, occasionally have a load for transportation from the vicinity of New York to El Paso or other far away points; and frequently loads from Kansas City, Minneapolis and Chicago to Miami, Tampa and other southern points; and loads originating en route may take the truckman to points far distant from the point of origin. The requirements of the transportation may take the equipment into territory which may be sparsely populated, and where the com-

pany cannot, under any circumstances, maintain equipment and personnel sufficient to supervise operations by its own employees.

The moving of household goods differs from the transportation of ordinary freight. In the former, the truckmen come into direct contact with the family; must please the housewife in every particular and be a diplomat in general. In fact, the moving of household goods is practically a custom service. The company cannot control the need or demand for such service, nor can it control the origin or destination of such shipments. They must take the business where and when it is available. The company is obliged to so manage the business as to have motor vehicle equipment available to meet the shipper's demand. Consequently, any one piece of motor vehicle equipment may be dispatched on irregular routes and on schedules most suiting the convenience of the shippers, to any part of the 38 states served by the company. And so, it is not uncommon or infrequent that any one piece of motor vehicle equipment may be away from Chicago or points of origin two, three or four months.

It is, therefore, impossible for the company to exercise supervision over the details of performance, the method and manner of performance, or the "physical conduct" of the driver of the motor vehicle equipment.

It is impossible to determine, with accuracy, the cost of operating equipment from one distant point to another under varying road conditions, climatic conditions, terraine, etc., if operated by an employee, particularly when the equipment may be on the highways without return-

ing to base, for weeks at a time. When the owner is personally in charge of the equipment, it is his loss when not operated economically and up to its full capacity.

Efficiency in loading is important. Unless efficiently loaded, neither the independent contractor or the company realizes maximum income from the transportation. The system of independent contracts in force encourages maximum use of available space and efficient loading and unloading.

The incentive to a man engaged in his own business to make a profit from the operation of his own equipment, creates in him a desire for excellence in performance. This indicates the necessity for and the advisability of, the company operating under the system of independent contractors wherever it can.

The truckman may choose his own routes. He is not obliged to follow any particular route. He may depart from the shortest possible route if he desires, the excess cost being his to bear. In Pennsylvania, he may take the new super highway, paying the added cost of $7.50 for the use of it, or he may take the public highway. The option and the expense is his. **No control of the method and manner of operation of equipment is, or can be, exercised. These truckmen therefore are in a business of their own and not in any employment for Greyvan Lines, Inc.** (R., p. 226, par. 24), **Mutual Trucking Co. v. U. S.,** 51 F. Supp., 114, aff'd 51 F. (2d), 655.

THE GOVERNMENT'S STATEMENT.

Many of the statements contained on pp. 3 to 9 of the Government's petition are not accurate. For instance (R., 141), Government counsel cut off the witness without permitting him to state the character of the bulletins issued. The labor contracts were separate, there being different contracts applying to (1) employees and (2), truckmen. (R., 174.) For some reason the Government did not print these contracts in the transcript, but they will be found with the original papers. This court has held that membership in a Union is consistent with the independent contractor relationship. **American Federation of Labor v. Swing, et al.**, 312 U. S., 321, 85 L. Ed., 855. The requirement as to truckmen belonging to a Labor Union was not a requirement created, or voluntarily imposed upon plaintiff. Many of the regulations referred to (Pet., p. 6) revolved about the requirement imposed by the regulations of the Interstate Commerce Commission promulgated under the Motor Carrier Act, all as found by the District Court. (R., pp. 225, 226, paragraphs 21 and 24.)

The evidence as discussed by the Circuit Court of Appeals will demonstrate to the court that the regulations set forth in the manual were never adhered to or enforced, and as the Circuit Court of Appeals say: "We agree with the appellee that there was evidence to justify the court's disregard of" the manual. (R., 257.)

Statements contained in petition (p. 7) are taken from the manual and not from the evidence and consideration of the manual has been removed from the case by the

findings of the District Court, fully concurred in by the Circuit Court of Appeals.

Reference to the proceedings before the Interstate Commerce Commission (Pet., p. 8) are not accurately stated and, as the Circuit Court of Appeals said, the Government's contention is not borne out. (R., 257-8.) The company's operation was fully warranted. Otherwise a certificate would not have been granted by the Interstate Commerce Commission.

U. S. v. Rosenbloom Truck Lines, 315 U. S., 50; **Thompson v. U. S.**, 321 U. S., 19.

With reference to the "breaking down of payments" (Pet., p. 8), the answer of the Circuit Court of Appeals is quite conclusive:

> "The breaking down of the payments to the truckmen to differentiate between wages and profits from the use of their equipment appears to us to be equally arbitrary.
>
> We agree with the District Court that the relationship of employer and employee did not exist between the company and the truckmen or their helpers. We find no error in the findings challenged by appellant." (R., 259.)

ANSWER TO GOVERNMENT'S PETITION.

(1). Answering the first alleged specification of errors to be urged (Pet., p. 9), the uncontradicted evidence showed the existence of an independent contractor relationship, not taxable under the statute, as evidenced by the findings of fact. (Pars. 12 to 17, R., 222-4.) The findings of fact (Par. 24, p. 226) rested upon a safe foundation and the conclusions of law were irrefutable. (R., 227.)

The second alleged specification to the effect that the Court of Appeals failed to look to the purposes of the Social Security Act is likewise without foundation. There was no room for the Circuit Court of Appeals or the District Court to "consider the economic facts of the relationship between the parties" as the statute (Government's Appendix, p. 14 et seq.) specified the only persons subject to the tax and there is no room to read into that statute any "economic condition" when Congress did not. The history of the acts, as hereinafter referred to, dispels any idea that independent contractors were subject to the tax.

As to the third alleged specification (Pet., p. 10), the act itself likewise dispels any notion that any test other than that specified in the act is to be taken into consideration. As pointed out above, the question is whether the truckmen were employed by plaintiff **for a wage**, upon which **wage** there could be levied, collected and paid a tax equal to the percentage of the **wages** received by the individual with respect to employment.

Here the evidence purely and clearly dispels the employment of the individual upon a wage and there is no room for the application of the act as held by both the Circuit Court of Appeals and the District Court.

In the fourth alleged specification with respect to the commissioner's assessments being arbitrary, if the record in this case does not show that the assessments were made arbitrarily, without support of fact, and in an arbitrary manner, we submit that it is impossible to find an assessment that was arbitrarily made.

Assessments Were Arbitrarily Made.

Greyvan's agreement with the truckmen was indivisible. That agreement was to pay a stated amount for the completed transportation which the contract truckman undertook to consummate. **Commercial Motor Freight, Inc., v. Ebright**, 143 O. S., 127, 54 N. E. (2d), 297, 151 A. L. R., 1321. Amounts to which the truckman, as an independent contractor, was entitled on each particular haul were determined in advance from the schedule attached to the contract. There was no amount specified for wages and no amount specified for the use of the equipment, expenses, investment, maintenance or profit. The collector could not divide anything which the parties themselves did not attempt to divide and which cannot, in the nature of the thing, be divided. He could not renegotiate the contract between the truckmen and Greyvan, nor could he substitute one of his own making in place thereof.

No wages were paid to the truckman; nor were any one of the employees or the contract truckmen on the payroll of Greyvan. The contract truckman was the paymaster of the persons whom he hired, controlled while in his employ, and fired at the conclusion of the employment, or sooner, if he desired.

How the collector can justify an attempt to break down this contract and segregate a "wage" on which to apply the percentage of tax specified in the statute, we cannot comprehend. Such action was arbitrary, unjustified and unlawful.

The stipulation (R., 25, par. 8) shows the method and the manner of arriving at the computations made by the collector. He forced a "payroll" for Greyvan in the manner therein stipulated. Exhibit G (R., 45-62) shows the manner in which it was done. Under the column "Name of Employee" on each page of this exhibit (except the final sheet), the contract truckman's name was written therein. The three months period for which the assessment is made is indicated in the proper column. Under the column "Amount of Wages Actually Reported on Return" is found the word "none." Under the column "Correct Amount of Wages" is inserted the amount arrived at by the artificial means of producing a pay roll. Attention is called particularly to the first column "Employees Account No." The word "unknown" appears throughout the whole series of the enforced supplemental returns.

Attention is called to the last sheet of Exhibit G (R., 62), where, under the column "Name of Employer" there

is extended the word "Dummy." These covered helpers who were employed and paid by the various truckmen themselves, and whose estimated wages were arbitrarily arrived at in the manner set forth in paragraphs 8(b) (R., 26) of the stipulation. The names of such persons were entirely unknown to Greyvan. They had no records from which the identity of such persons could be ascertained. (R., 62, 137.) No consideration was given to such portion of that labor as was furnished by warehouses throughout the country and upon whose wages, it must be presumed, social security taxes were paid by the owners of such warehouses and the employers of such labor, as required by the law.

That the action of the Government was not only arbitrary, but inconsistent, is also demonstrated by the fact that certain of the truckmen were employers, had employers' numbers, and paid the social security taxes with respect to their own employees.

Counsel for the Government claim (Pet., p. 12) that Treasurer Shearer agreed to the "allocation." Without questioning whether such an agreement would be beyond his authority, or supported by a consideration, no such agreement was made. Such an agreement was expressly denied by Shearer (R., 141) and the Government put on no witness to prove the contrary. The effect of the testimony was, that if the plaintiff was liable for the tax, the amount was not controverted. The court sustained our objection to the question as to whether there was "controversy about the amount of wages." (R., 141.) Furthermore, we introduced no evidence as to the cor-

rectness or incorrectness of the computations but content ourselves on the proposition that there was no wage paid, and there is no tax payable because the truckmen were not employees within the meaning of the Social Security Act. Why the Government insists upon it we cannot understand, because, if there is a liability for the tax such liability exists irrespective of any agreement with Treasurer Shearer.

The False Issue of Control.

In further answer to the petition for the writ under the heading "Reasons for Granting the Writ" (Pet., p. 10), we are not conversant with the record in **United States v. Silk.** (Pet., p. 10.)

The Government here, as in the courts below, has failed to draw a proper line of demarcation between co-operation and control.

Further, the factual question is resolved against the Government by paragraph 24 of the findings of fact. (R., p. 226.)

Neither the common law rule as applied in tort cases or elsewhere has application. The statute furnishes the sole test with reference to who is or who is not taxable. It does not depend upon whether one exercises control; therefore, the Circuit Court of Appeals and the District Court were correct in holding that the evidence as a whole conclusively showed the existence of the independent contract relationship and the payment of no wage which took the case without the statute.

It is well recognized that a measure of control does not affect the independent contractor relationship when such supervision is inherent in any joint undertaking.

Radio City Music Hall Corp. v. U. S., 135 F. (2d), 715, 718;

Los Angeles Athletic Club v. U. S., 54 F. Supp., 702, 706;

Schatz Pollock Woolen Co. v. Murphy, Director, 348 Ill., 218, 51 N. E. (2d), 147.

The definitions of who are subject to the Fair Labor Standards Act are not to be found within the Social Security Acts or any of the acts quoted or referred to in the appendix. Consequently **Walling v. Rutherford Food Corp**, 156 F. (2d), 513, **National Labor Relations Board v. Hearst Publications**, 322 U. S., 111, and other cases of the same character have no application here.

Under the third reason assigned (Pet., p. 12), the Government would require this defendant to defer collection of its judgment and go to the expense of defending a case in this court for academic reasons alone. We deny that the evidence showed that Treasurer Shearer made any agreement with respect to the basis of determining the amount of the tax or had any authority to make such an alleged agreement. There was no wage upon which to make any assessment and there was no evidence available to the commissioner upon which to base an assessment. The commissioner fixed his own basis for computing a wage where none in fact existed.

The illegal and arbitrary character of the assessment is well shown in the findings, paragraphs 9 to 11, inclusive. (R., p. 222.) These findings were based on the stipulation. (R., 24-26.)

The Manual for Truckmen.

The main hold of the Government is on the "Manual for Truckmen" introduced in evidence as the Government's Exhibit 1. The argument is entirely beside the point since there was no employment, no wages, and consequently could be no tax. (**Williams v. U. S.**, 126 Fed.. (2d), 129.)

The District Court disregarded the exhibit because the evidence showed that the manual, while prepared and distributed, was never enforced or relied upon except for the information which it contained to a new truckman starting in the business. (R., 104, 150, 154 and 171.)

In the first instance, the period involved is from January, 1937, through the first three months of 1942. The manual was not distributed until April 20, 1940, so that it can have no effect whatsoever upon that part of the assessment preceding April 20, 1940.

Secondly, the independent contracts date back to 1929, long prior to the enactment of the social security legislation. As established by the evidence, operators of this equipment traveled far and were away from Chicago and the offices of the company and under no supervision whatever for weeks and even months at a time. It was impossible for the company to supervise the details of their operations, which character of supervision goes hand in hand with an employer-employee relationship. Growing out of early lessons, the company found it advisable to obtain the services of a business man (not a mere menial servant) who had sufficient business capacity to properly handle the customers of Greyvan, who by means of a large investment and solicitation of business throughout

the 38 states served, it had been able to procure. (R., 119, 162, 163.) A large majority of its customers were householders, mainly women, who had pride of ownership in the household goods to be moved and many of whom were extremely hard to please. The business is different from a general trucking business where commercial establishments call when there is property to be transported; the business is scattered as people seldom move from city to city. (R., 136.)

On company operated equipment, employees occasionally failed to keep the vans moving, were reckless in handling the company equipment, unnecessarily damaged the shippers' goods, adding expense, for which and other reasons it was decided imperative to secure persons who owned and operated their own equipment, even though it became necessary to divide with them a larger share of the profits than would have been necessary under an employment relationship. (R., 175-177, 102.) The truckman was an employer and in business for himself. (R., 127.)

Thus the independent contract relationship came into existence and would have been used 100 per cent during the time involved if conditions had permitted. (R., 177.)

With this history in mind what became of the manual? The three former employees who prepared the manual overlooked the impossibility of enforcing the provisions of the manual. Being impossible of enforcement, the company as to the owner-operators never endeavored to enforce it. (R., 171.) The truckmen and dispatcher paid no attention to the manual. (Bossert, R., 104; Prante, R., 150, 151.) Provisions with reference to uniforms were not enforced. (R., 103, 113, 171, 179.)

A single former truckman, one Joe Garrison, out of the 50 to 60 truckmen involved, was produced. He had been a failure and voluntarily quit. His understanding with reference to the manual were assumptions of his own, not any instructions that he received from any of the officials of the company, and the assumptions were stricken. (R., 185, 186.) He remembered no conversation with any company official in connection with the manual. (R., 186.)

Even the witness, Garrison, supported the company in most of his testimony. Five truckmen were considered to have testified cumulatively in support of the testimony of Mr. Bossert (R., 141), and there was no evidence of probative value to contradict the testimony submitted by the plaintiff that the manual was impractical and never was enforced; and the only use made of it was for the information which was contained therein. In fact, dispatcher Prante testified that he never saw the book, let alone use it. (R., 150, 151.)

Since the manual was not adhered to and not enforced, it was the same as if never written and was used solely for the purpose of the information which it contained; not as a directive. For the reasons heretofore stated, it was useless as a directive to the truckmen.

The following cases hold such directives do not affect the independent contractor relationship.

Griff Williams v. U. S., 126 Fed. (2d), 129;
Radio City Music Hall Corp. v. U. S., 135 Fed. (2d), 715;
Standard Oil Co. v. Glenn, 52 F. Supp., 755, aff'd 148 F. (2d), 51;
U. S. v. Davis, 154 F. (2d), 314 (U. S. Ct. of App., D. C., 1946).

The manual has no place in this case. It cannot establish the basis of taxation necessary in this case. The basis of taxation is wholly lacking in this case, control or no control. To set aside the company's contracts with its truckmen and to renegotiate such contracts, in order to establish a wage basis upon which the percentages mentioned in the statute can be applied, is legislating. This is what the collector did. Certainly the court will not sustain such attempt at legislating. It is his job to enforce the statutes as they stand; not to rewrite them. That job can safely be left to Congress, whose members are elected by the people.

Whether this court can construe the manual irrespective of the District Court's judgment and findings is immaterial, since the District Court sustained us on the point that the manual was never effective or enforced; consequently further consideration of that point drops from the case.

This finding of the District Court was fully approved by the Circuit Court of Appeals. (R., 257.)

HISTORY OF THE ACT DISPELS ANY CONSTRUCTION THAT PLAINTIFF IS TAXABLE WITH RESPECT TO ANY PART OF THE PAYMENTS MADE TO ITS INDEPENDENT CONTRACTORS; OR WITH RESPECT TO THE WAGES PAID BY THE INDEPENDENT CONTRACTORS TO THEIR HELPERS WHOM THE HIRED, PAID AND FIRED.

Counsel for the Government argues that the independent contractors and the helpers whom they engaged for a limited period of time for the purpose of assisting in loading and unloading the household goods, are within the class of persons intended to be included in the Social Security Act. The assertion gets counsel for the Government no place unless they can show that Congress did, in fact, include them within the confines of the act. Counsel are in error in that contention as displayed by the history of the acts to which we now turn.

The Federal Social Security Act, which became effective August 14, 1935, was passed to achieve a program of social security by cooperation between the federal Congress and the several state Legislatures. The committee on economic security appointed by the President to make recommendations, made report on January 15, 1935, in which it recommended encouragement of "stabilization of employment" by the states and outlining a program which "will permit social and industrial stability." (See Report to the President dated January 15, 1935.)

As this court later said:

> "That act laid the foundation for a cooperative endeavor between the states and the nation to meet a grave emergency (unemployment) problem; and it found a method by which the state and the federal government could 'work together to a common end.'"

See:

Steward Machine Co. v. Davis, 301 U. S., 588, 81 L. Ed., 1291;

Buckstaff Bathhouse Co. v. McKinley, 308 U. S., 358, 84 L. Ed., 322.

In the last cited case the court says:

> "* * * Under the coordinated field which the act visualizes, when Congress brought within its scope various classes of **employers**, it in practical effect invited the states to tax the **same classes**. * * *" (84 L. Ed., 326.)

With this purpose in mind, it cannot be denied that the act was, of necessity, applicable only to employers having the power to hire and discharge their own employees, to determine their hours of labor, their conditions of work, which employers could undertake adequate steps to stabilize employment. In this case, the independent contractors alone have those powers over the men whom they hired, controlled, paid and fired. Therefore, the independent contractors must be treated as the employers of their assistants, if the purpose of the act, "stabilization of employment," is to be effectuated.

Said Bratton, C. J., in **Jones v. Goodson**, 121 F. (2d), 176:

> "The tax imposed on an employer is denominated an excise tax, and it has been judicially determined

and sustained as such a tax levied upon the privilege of establishing and maintaining the relationship of employer and employee. **Steward Machine Co. v. Davis**, 301 U. S., 548; **Helvering v. Davis**, 301 U. S., 619. **The tax is confined to cases where that relationship exists. It does not extend to instances where persons performing services are independent contractors."**

Congress, in 1939, had before it for consideration a change of this basis of taxation. It was considering a bill to extend the application of the acts to certain other relationships than employer-employee. The attempt was debated in Congress during the summer of 1939 and an amendment was adopted in the House which included:

> "* * * any individual, who, for remuneration (by way of commission or otherwise) under an agreement or agreements contemplating a series of similar transactions, secures applications or orders or otherwise personally performs services as a salesman for a person in furtherance of such person's trade or business (but who is not an employee of such person under the law of master and servant) unless * * *." (See Report of Rep. Doughton of Committee on Ways and Means, dated June 2, 1939, to accompany H. R. 6635, pp. 109-10.)

In the Senate, the finance committee struck out the proposed amendment, saying:

> "Definitions of employee and employer—The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law **which limits coverage to employees.** * * *" (Report of Senator King for the committee dated July 7, 1939, to accompany H. R. 6635, p. 75.)

The conference committee sustained the Senate saying:

> "Amendments Nos. 97 and 98—The House bill extended coverage to certain salesmen **who are not employees** * * *. It is believed inexpedient to change the existing law **which limits coverage to employees**. The House recedes." (Conference Report of Rep. Doughton, dated August 4, 1939, to accompany H. R. 6635, p. 14.)

As said in the opinion of Mr. Justice Cardozo, in **Norwegian Nitrogen Products Co. v. U. S.**, 288 U. S., 294, 77 L. Ed., 796:

> "The history of the statute as it passed through the two houses of the Congress supplies confirmatory evidence." (Op., 77 L. Ed., p. 802.)

The history immediately referred to supplies confirmatory evidence that the employer-employee relationship, as known at the common law, was to be taxed with regard to **employment** on a **percentage** of the **wage** paid. Since no **wage** was paid in the case, the case ends with the determination of that fact. (See Findings of Facts Par. 25, R., 227.)

NO REASONS SHOWN WHY THIS CASE SHOULD BE ORDERED CERTIFIED UNDER SECTION 38, RULE 5 (B).

There are no conflicting decisions of the Circuit Court of Appeals and the many decisions rendered to date have followed a substantially unanimous trend. Nor are there any questions involved in this case, as decided by the lower courts, with which the instant decision is in conflict. Nor has the Circuit Court of Appeals of the Seventh Circuit so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of this court's power of supervision.

Without quoting at length therefrom, but holding in line with the point involved, are the following decided cases by the several courts referred to.

LIST OF APPLICABLE DECIDED CASES.

Transportation Cases:

The following cases involving transportation, most of which are by common carriers, are in support of the plaintiff.

United States v. Rosenbloom Truck Lines, 315 U. S., 50, 86 Law Ed., 671 (1942);

Thompson v. United States, 321 U. S., 19, 88 Law Ed., 513;

United States v. Mutual Trucking Co., 141 F. (2d), 655 (C. C. A. 6, 1944), affirming 51 F. Supp., 114;

Midwest Haulers, Inc., v. Brady, 128 F. (2d), 496 (C. C. A. 6, 1942);

Magruder v. Yellow Cab Co., 141 F. (2d), 324 (decided 1944, C. C. A. 4), affirming 49 F. Supp., 605;

United States v. Davis, 154 F. (2d), 314 (U. S. Ct. of Appeals, Dist. Columbia, 1946);

Commercial Motor Freight, Inc., v. Ebright, 143 O. S., 127, 54 N. E. (2d), 297, 151 A. L. R., 1321.

Compare:

Columbia River Packers' Assoc. v. Hinton, 315 U. S., 143, 86 L. Ed., 750.

Decisions by Circuit Court of Appeals Involving Unemployment and Social Security and Similar Acts:

United States v. Mutual Trucking Co., 141 F. (2d), 655 (C. C. A. 6, 1944), affirming 51 F. Supp., 114;

United States v. Davis, 154 F. (2d), 314 (U. S. Ct. of Appeals, Dist. Columbia, 1946);

McGowan v. Lazeroff, 148 F. (2d), 512 (C. C. A. 2, 1945), affirming D. C. of N. Y.;

Glenn v. Standard Oil Co., 148 F. (2d), 51 (C. C. A. 6, 1945), affirming 52 F. Supp., 755;

Spillson v. Smith, 147 F. (2d), 737 (C. C. A. 7, 1945), affirming D. C. of N. Y.;

Glenn v. Beard, 141 F. (2d), 376 (C. C. A. 6, 1944), cert. denied 323 U. S., 724;

Magruder v. Yellow Cab Co., 141 F. (2d), 324 (C. C. A. 4, 1944), affirming 49 F. Supp., 605;

Ridge Country Club v. United States, 135 F. (2d), 718 (C. C. A. 7, 1943);

Fahs, Coll., v. Orange State Oil Co., 138 F. (2d), 743 (C. C. A. 5, 1943), affirming 52 F. Supp., 509 (1942);

American Oil Co. v. Fly, Coll., 135 F. (2d), 491 (C. C. A. 5, 1943, reversing D. C. of Miss.);

Radio City Music Hall Corp. v. United States, 135 F. (2d), 715 (C. C. A. 2, 1943), affirming 50 F. Supp., 328, on summary judgment;
Anglim, Coll., v. Empire Star Mines Co., Ltd., 129 F. (2d), 914 (C. C. A. 9, 1942);
Midwest Haulers, Inc., v. Brady, 128 F. (2d), 496 (C. C. A. 6, 1942);
Williams v. United States, 126 F. (2d), 129 (C. C. A. 7, 1942) reversing 38 F. Supp., 536 (certiorari denied 317 U. S., 655);
Indian Refining Company, et al., v. Dallman, Coll., 119 F. (2d), 417 (C. C. A. 7, 1941), affirming 31 F. Supp., 455;
Government Personnel Automobile Assoc. v. United States, 124 F. (2d), 99 (C. C. A. 5, 1941);
Texas Company v. Higgins, 118 F. (2d), 636 (C. C. A. 2, 1941), affirming 32 F. Supp., 428.

Decisions by District Courts Involving Unemployment and Social Security and Similar Acts:

Nebraska National Hotel Co. v. O'Malley, 63 F. Supp., 26 (D. C. Neb., 1945);
Emard v. Squire, Coll., 58 F. Supp., 281 (W. D. of Wash., 1945), citing Columbia River Co. v. Hinton, 315 U. S., 143;
Gulf Oil Corp. v. U. S. A., 57 F. Supp., 376 (W. D. of Pa., 1944);
Hirsch v. Rothensies, 56 F. Supp., 92 (E. D. of Pa., 1944);
Brown & Sons Lumber Co. v. U. S., 55 F. Supp., 103 (W. D. of Ky., 1944);
Los Angeles Athletic Club v. U. S., 54 F. Supp., 702 (S. D. of Calif., 1944), appeal dismissed, 144 F. (2d), 352;
Standard Oil Company v. Glenn, Coll., 52 F. Supp., 755 (W. D. Ky., 1943), affirmed 148 F. (2d), 51;
The Spirella Company v. McGowan, Coll., 52 F. Supp., 302 (W. D. N. Y., 1943);

Yellow Cab Company v. Magruder, 49 F. Supp., 605 (D. C. of Maryland, 1943), affirmed 141 F. (2d), 342;

Biltgen v. Reynolds, Coll., 58 F. Supp., 909 (D. C. of Minn., 1943);

Bufruss v. Early, Coll., 44 F. Supp., 21 (W. D. of Va., 1943);

Orange State Oil Co. v. Fahs (D. C. Fla., 1942), 52 F. Supp., 509, affirmed (C. C. A. 5), 138 F. (2d), 743;

In the Matter of the Ten Eyck Company, 41 Supp., 375 (N. D. N. Y., 1941);

Kentucky Cottage Industries, Inc., v. Glenn, Coll., 39 F. Supp., 642 (W. D. of Ky., 1941), appeal dismissed.

Decisions Under State Unemployment Acts:

We are supported by the following cases arising under various state unemployment compensation acts:

Ozark Minerals Co. v. Murphy, Director, 51 N. E. (2d), 197, 348 Ill., 94;

Schatz, Pollack Woolen Co., Inc., v. Murphy, 51 N. E. (2d), 147, 348 Ill., 218;

Crossett Lumber Co. v. McCain, Comm., 170 S. W. (2d), 64 (Sup. Ct. of Ark., 1943), and 174 S. W. (2d), 174 (1943);

Southern Kraft Corp. v. McCain, 171 S. W. (2d), 947 (Sup. Ct. of Ark., 1943);

Texas Co. v. Wheeless, 185 Miss., 799, 187 So., 880;

Rochester Dairy Co. v. Christgau, 14 N. W. (2d), 780 (Sup. Ct. Minn., 1944).

We have included in the foregoing list no cases in which Congress or the General Assembly of any state has, by definition, defined "employment" or "employee" other than it was defined at common law; as illustrated by the decision in **Walling v. American Needlecrafts**, 139

F. (2d), 60 (6 C. C. A., 1943) and **National Labor Relations Board v. Hearst Publications**, 322 U. S., 111. And, as to state unemployment compensation laws, where the "three tests" provisions were adopted, as found in the cases cited in the **Hearst** case, pages 121, 122.

We submit that there is no occasion to certify this case to this court for settlement of propositions of law which have already been settled; and in the record of which case there exists no question to be settled except the application of the Social Security and Unemployment Acts to persons who have been established to be independent contractors and as to whom no employment relationship exists and no wages have been paid upon which to assess the percentage of tax specified in those acts.

REGULATIONS OF TREASURY DEPARTMENT.

Regulations of the Treasury Department are printed by the Government in Appendix, p. 16 et seq. They have no application whatsoever to the case presented by the record.

Judge Learned Hand in **Radio City Music Hall Corp. v. U. S.**, 135 F. (2d), 715 (1943), said:

> "We accept Article 3 of Regulations 91 as an authoritative definition of the distinction between an 'employee' and an 'independent contractor'; it is really no more than a gloss upon the definition contained in Justice Gray's opinion in Singer Manufacturing Co. v. Rahn, 132 U. S., 518, 523. We assumed its conclusiveness in Texas Company v. Higgins, supra, 638 (118 Fed. (2), 636), and so have the Tenth Circuit (Jones v. Goodson, 121 Fed. (2), 176, 179), and the Seventh (Williams v. United States, 126 Fed. (2), 129, 132)." (Op., p. 717.)

Said Judge Hand in **Texas Co. v. Higgins**, 118 F. (2d), 636 (C. C. A. 2, 1941):

> "A persuasive reason for this conclusion, at least in the case at bar, is that Congress could scarcely have meant a man doing a business like Thomas's to enjoy the benefit of unemployment allowances; and if he was not an 'employee' his four assistants were not; the servant of a servant may be the master's servant, but the servant of an 'independent contractor' is not. **United Gas Improvement Co. v. Larson**, 182 Fed. Rep., 620 (C. C. A. 3)." (Op., p. 638.)

Again, from the same case, Judge Hand said:

> "Were the question presented to us for the first time, we should have no doubt that Thomas and his assistants were not 'employees' of the plaintiff; **the act appears to take over the term as the common law knew it**, and at common law they would not be employees. The regulation is in harmony with this assumption, for it enumerates the generally accredited determinants in such cases, of which the most important is the putative employer's control over the employee's business * * *." (Op., p. 638.)

As shown by the record (R., 218), following the decision of the case of **Mutual Trucking Co. v. U. S.**, 141 F. (2d), 655, on April 17, 1944, the Commissioner of Internal Revenue, by mimeograph dated July 22, 1944, reversed his previous decisions under which this line of cases had arisen and accepted the holding in **Mutual Trucking Co. v. U. S.**, as dispositive of these questions. So far as now appears, the instant case is the only one pending involving such transportation contracts; but

many have been disposed of in accordance with the decisions of the District Court and the Circuit Court of Appeals.

There is no occasion to order a writ of certiorari.

Respectfully submitted,

WILBUR E. BENOY,
ARTHUR M. SEBASTIAN,
50 W. Broad St., Columbus 15, Ohio,
ROBERT DRISCOLL,
GEORGE T. CHRISTIE,
2737 Board of Trade Bldg., Chicago, Ill.,
Attorneys for Plaintiff.

FILE COPY

FEB 28 1947
CHARLES ELMORE CROPLEY
CLERK

No. 673.

Supreme Court of the United States

OCTOBER TERM 1946.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,
Petitioner,

vs.

GREYVAN LINES, INC.

On Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit.

BRIEF OF APPELLEE, GREYVAN LINES, INC.

WILBUR E. BENOY,
ARTHUR M. SEBASTIAN,
50 W. Broad St., Columbus 15, Ohio,
ROBERT DRISCOLL,
GEORGE T. CHRISTIE,
2737 Board of Trade Bldg., Chicago, Ill.,
Attorneys for Plaintiff.

MIDWEST LAW PRINTERS AND PUBLISHERS, INC., Columbus 15, Ohio

INDEX.

Statement of the case 3
Questions presented 6
Findings of facts require affirmance of judgment ... 7
The truckman's contract 8
Agreement is indivisible 9
History and reasons for the independent contract 10
Advantages of operation under independent contract 14
Union contracts 14
Answer to appellant's brief 17
(a) In statement of facts 17
(b) Answer to specifications of errors to be urged 20
(c) Answer to summary of argument 21
Argument 23
Findings of fact establish independent contract relationship 23
Conclusions of law supported by reason and authority 24
Contract is determinative of intention of parties 33
History of the act dispels any construction that plaintiff is taxable with respect to any part of the payments made to its independent contractors: or with respect to the wages paid by the independent contractors to their helpers whom they hired, paid and fired 34
Assessments were arbitrarily made 39
Regulations of treasury department 43

The issue of control 45
Control v. Independent contracts 46
The manual for truckmen 48
Parking lots 52
Dispatcher 53
Regulations of the Interstate Commerce Commission 53
Insurance 53
Using equipment for other purposes 54
Markings on equipment 54
Contract terminable on notice 55
Exclusive use of equipment 56
Compliance with regulations of I. C. C. 58
Application to the Interstate Commerce Commission 59
Alleged agreement with respect to the enforced returns 67
Discussion of cases cited by appellant 68
Tort case 68
Decisions under state unemployment act 69
Decisions under other statutes 68
Decisions under Federal Unemployment Insurance Act 69
Conclusion 70
Appendix A—Discussion of the state of the record. 72
Appendix B—List of applicable decided cases 77
Transportation cases 77
Decisions by Circuit Court of Appeals involving unemployment, social security and similar acts 77
Decisions by District Courts involving unemployment, social security and similar acts ... 79
Decisions under state unemployment acts 80

Citations.

American Ins. Co. v. Scheufler, 129 F. 2d, 143 7
American Federation of Labor v. Swing, et al., 312 U. S., 321, 85 L. Ed., 855 15
American Oil Co. v. Fly, 135 F. 2d, 491 55
Allied Van Lines, 46 M. C. C., 159 65
Acme Fast Freight, Inc., v. United States, 309 U. S., 638 66
Bereth v. Sparks, 51 F. 2d, 441 8
Burruss, et al., v. Early, Coll., 44 F. Supp., 21 (1942) 27
Buckstaff Bathhouse Co. v. McKinley, 308 U. S., 358, 84 L. Ed., 322 35
Brownligg v. Allvine Dairy Co., 137 Kas., 209, 19 Pac. (2d), 474 (1933) 55
Commercial Motor Freight, Inc., v. Ebright, 143 O. S., 127, 54 N. E. (2d), 297, 161 A. L. R., 1321 ..... 25, 39, 41
Crossett Lumber Co. v. McCain, Commissioner of Labor, 205 Ark., 631, 170 S. W. (2d), 64, 174 S. W. (2d), 114, 206 Ark., 51 ..... 31, 55, 58
Coviello v. Industrial Commission, 129 O. S., 589, 196 N. E., 661 55
Casement v. Brown, 148 U. S., 615 68
Columbia River Packers Assn. v. Hinton, 315 U. S., 143, 86 L. Ed., 750 16
Cohn v. Hartford, 130 Conn., 699, 37 A. (2d), 237 17
Craige v. Austin Powder Co., 91 F. 2d, 664 33
Chicago, Rock Island & Pacific Ry. Co. v. Bond, 240 U. S., 449, 60 L. Ed., 735 57
Dixie-Ohio Express Co., 17 M. C. C., 735 59
Electrolux Corp. v. Board of Review, 129 N. J. L., 154, 28 Atl. (2d), 219 69
Ellis v. Associate Industries Ins. Corp., 24 F. 2d, 809, aff. 16 F. 2d, 464 33

Emard v. Squire, Coll., 58 F. Supp., 281 (Wash. Dist. Ct., Jan., 1945) 19
Fawcus Machine Co. v. United States, 282 U. S., 375, 75 L. Ed., 397 44
Fidelity & Casualty Co. v. Industrial Commission, 191 Cal., 404, 216 Pac., 578 (1923) 56
Fisher Body Co. v. Wade, 45 O. A., 263, 187 N. E., 78 56
Gary Theatre Corp. v. Col. Picture Corp., 120 F. 2d, 291 8
Glenn v. Standard Oil Co., 148 F. 2d, 51 58
Glenn v. Beard, 141 F. 2d, 371 ..... 34, 69
Gulf Refining Co. v. Brown, 93 F. 2d, 870 68
Grace v. Magruder, 148 F. 2d, 679 69
Gabel Mfg. Co. v. Murphy, 390 Ill., 455, 62 N. E. (2d), 401 31
Halkias v. Wilkoff Co., 141 O. S., 139, 145, 47 N. E. (2d), 199 55
Hedges v. Johnson, 52 F. Supp., 488 65
Iselin v. United States, 270 U. S., 245, 70 L. Ed., 566 42
Industrial Commission v. McAdow, 126 O. S., 198, 184 N. E., 759 34
Jones, Collector, v. Goodson, 121 F. 2d, 176 ..... 28, 36
Lehr, Inc., v. Brown, 91 S. W. (2d), 693 (Texas, 1943) 59
Los Angeles Athletic Club v. United States, 54 F. Supp., 702 47
Lewis v. Transfer Co., 119 S. W. (2d), 106 55
Howard W. Luff Co. v. Capece, 61 F. 2d, 635 33
Metcalf & Eddy—Partnership v. Mitchell, 269 U. S., 514, 521 47
Mutual Trucking Co. v. United States, 141 F. 2d, 655 ..... 6, 41
McDermott v. State, 196 Wash., 261, 82 Pac. (2d), 568 30

Magnolia Petroleum Co. v. Griych, 176 S. W. (2d), 435, 206 Ark. 352 ..... 34, 55
Merchants Mutual Insurance Co. v. Allen, 126 U. S., 67 17
Nevius, Inc., v. Rothensis, 151 F. 2d, 189, aff., 58 F. Supp., 460 ..... 28, 58, 70
Norwegian Nitrogen Products Co. v. United States, 288 U. S., 294, 77 L. Ed., 796 39
National Labor Relations Board v. Hearst Publications, 322 U. S., 111 ..... 48, 69
Norton v. Day Coal Co., 192 Iowa, 160, 180 N. W., 905 58
Ozark Minerals Co. v. Murphy, Director, 384 Ill., 94, 51 N. E. (2d), 197 30
Pick Manufacturing Co. v. General Motors Corp., 299 U. S., 3, 81 L. Ed., 4 8
Radio City Music Hall Corp. v. United States, 136 F. 2d, 715 ..... 43, 47, 51
Riggs v. Haden Co., 127 Tex. 314, 94 S. W. (2d), 152 55
Railroad Co. v. Hanning, 15 Wall., 649 68
Ridge Country Club v. United States, 135 F. 2d, 718 70
Robinson v. B. & O. Rd. Co., 237 U. S., 84 56
Steward Machine Co. v. Davis, 301 U. S., 548, 81 L. Ed., 1291 ..... 35, 36
Schroepfer v. Abell Co., 48 F. Supp., 88, 96, aff. 138 F. 2d, 111, cert. denied 321 U. S., 763 47
Schatz Pollock Woolen Co. v. Murphy, Director, 348 Ill., 218, 51 N. E. (2d), 147, 148 47
Standard Oil Co. v. Glenn, Coll., 52 F. Supp., 755, aff. 148 F. 2d, 51 51
State, ex rel. v. Commercial Motor Freight, Inc., 48 N. E. (2d), 898 55
Sater v. Cities Service Oil Co., 291 N. W., 355 (Wis.) 34
Singer Mfg. Co. v. Rahn, 132 U. S., 518 68

Texas Co. v. Higgins, 118 F. 2d, 636, aff. 32 F. Supp., 428 ..... 47, 55, 70
Tex[illegible] Beeless, 185 Miss., 799, 187 So., 880 ..... 32, 36
Texas Co. v. Brice, 26 F. 2d, 164 ..... 33, 55
Thompson etc. v. United States, 321 U. S., 19, 88 L. Ed., 513 ..... 63, 65
Underwood v. Commissioner, 56 F. 2d, 67, 71 47
United States v. Carolina Freight Carriers Corp., 315 U. S., 475 63
United States v. Rosenbloom Truck Lines, 315 U. S., 50, 86 L. Ed., 671 (1942) 63
United States v. Mutual Trucking Co., 141 F. 2d, 655, aff. 51 F. Supp., 114 ..... 21, 64
United States v. The Vogue, Inc., 145 F. 2d, 609 69
United States v. Commercial Credit Co., 286 U. S., 63, 76 L. Ed., 978 8
United States v. Aberdeen Aerie, 148 F. 2d, 655 ..... 28, 70
United States v. Davis, 154 F. 2d, 314 ..... 51, 59, 69
Williams v. United States, 126 F. 2d, 129 ..... 24, 34, 48, 51, 62, 70
Walling v. Rutherford Food Corp., 156 F. 2d, 513 48
Williams v. Terminal Co., 315 U. S., 386 69
Wilson v. Merchants Loan & Trust Co., 183 U. S., 121, 126 17
Western Express v. Smeltzer, 88 F. 2d, 94 68
Wright, The Francis, 105 U. S., 381 17
Yellow Cab v. Magruder, Coll., 49 F. Supp., 605, aff. 141 F. 2d, 342 ..... 27, 43
27 Amer. Jur., p. 488, §7 46
53 Amer. Jur., 795, §1142 17
U. S. Code, Title 28, §391 7
Motor Carrier Act, U. S. C. A., Title 49, §303 60
Federal Rules of Procedure, §52 (a) 7

Supreme Court of the United States

OCTOBER TERM 1946.

No. 673.

CARTER H. HARRISON, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE,

Petitioner,

vs.

GREYVAN LINES, INC.

BRIEF OF APPELLEE, GREYVAN LINES, INC.

Greyvan Lines, Inc., submits this brief in support of the judgment of the District Court of the United States for the Eastern Division of the Northern District of Illinois (R., 228; Findings of fact and conclusions of law, R., 219) and affirmed by the Circuit Court of Appeals for the Seventh Circuit, 156 F. 2d, 412. Emphasis is ours, unless otherwise noted.

The transcript of record is in two volumes, Volume 1 being an exact duplicate of the printed transcript of record filed in the Circuit Court of Appeals, with the opinion of that court added (R., 253-260); and Volume 2, beginning with page 265, which consists of exhibits, the originals of which were filed in the Circuit Court of Appeals (R., 238) and which have not heretofore been printed.

Appendix A attached is a discussion of the state of the record and a description of the exhibits offered in evidence. Such description refers to both exhibits offered in evidence by the appellee and the lengthy exhibits offered in evidence by appellant.

Appendix B contains a list of applicable decided cases which establish a definite trend of the law in line with the rules which we maintain should be here applied, and against those for which the appellant contends. The trend has been substantially unanimous. No questions are involved in this case as decided by the lower courts with which the decision under review is in conflict. Manifestly, we are not able to separately discuss the contents of all of the cases cited in Appendix B and keep this brief within reasonable limits.

STATEMENT OF THE CASE.

The case is as well stated in the "Findings of Facts" (R., 219) as we could possibly restate it; especially with regard to the method of operation of the company's business (R., 219 et seq.) and the method of arriving at the arbitrary assessments. (R., 223, 226.)

In brief summary, plaintiff is a common carrier by motor vehicle (R., 137) authorized by the Interstate Commerce Commission (R., 389) to transport household and specific other goods throughout 38 states in the United States. It is duly authorized to conduct that business under the Motor Carrier Act of Congress and under the supervision of the Interstate Commerce Commission, with which its tariff charges are duly filed. (R., 137, 219.)

Exemplary of the uniform contract (R., 131) between the company and all its contract truckmen is the contract with M. R. Parsley of Indianapolis (R., 265), whose testimony appears at R., 120. These contracts were executed with owners of tractor-trailer outfits suitable for use as moving vans throughout the territory; they were not confined to Chicago, the home office of the company or to Illinois.

The company maintained branch offices and agents by and through whom (R., 119) and by means of advertising (R., 368) the business was obtained, and divided the gross revenues with the truckmen on substantially a 50-50 basis, except that if the truckmen qualified as most of them did, for a bonus, they were paid up to an additional 3%, (R., 119, R., 272, 273). For certain operations, such

as hoisting heavy pieces, including pianos, the truckman is paid up to 100% of the tariff charge, (R., 135, R., 272). Payments to the truckmen run as high as $1700 monthly (R., 275, 276). Compare with company drivers at union scale of $36.00 and $42.50 per week (R., 25) base pay, who, if he were a good man working full time, would not earn more than $185.00 to $200.00 a month (R., 177).

At pre-trial conference, the court directed that the case be submitted on stipulation (R., 136, 137) to which the appellant agreed to the extent set forth in the stipulation reproduced at R., 22-79. Oral testimony was offered by Greyvan Lines, Inc., in addition to the stipulation, to show the method and performance of the independent contracts. (See Exhibits B to H, R., 274 to 276, and Truckmen's Rate Schedule, R., 272 to 274.)

During the times involved in the assessment period (January, 1937, through first quarter of 1942 (R., 23, 24)) plaintiff was an "employer" within the meaning of the Social Security Acts of Congress and duly paid assessments levied on all of its employees. The amended and supplemental returns (enforced returns) (R., 28, 93) are with respect to its "truckmen" who operated under an independent contract (R., 139, 265), whose names are specified in the enforced returns (R., 45-93) and of certain persons employed by such truckmen, whose names are unascertainable (R., 137) but are lumped in the enforced returns under the designation, "Dummy". (R., 62.)

Plaintiff put on the stand six witnesses, three of them being truckmen Bossert, Foote and Parsley (R., 96 to 120), and Arthur F. Prante, the company's dispatcher,

(R., 144) Allen F. Scherfzberg, assistant secretary, who knew the details of the operation, (R., 160) and Walter W. Shearer, the company's treasurer, (R., 130) who testified as to the method of handling the payment of accounts to the truckmen.

As to truckmen, we had five in the court room ready to testify cumulatively, to the evidence produced mainly by truckman Bossert. The court stated that the testimony of truckman Bossert was sufficient, that he did not care to hear cumulative evidence and said "let the record show that the court does not desire to hear any cumulative testimony" and that "the five will testify to the same thing if they were asked the same questions." (R., 121.)

As against this evidence, the appellant offered an unsuccessful truckman by the name of Joe Garrison, whose testimony was not essentially at variance with the evidence offered by the plaintiff. He testified that, in fact, he refused to receive a load when tendered (R., 191) and after refusing to accept the load and quitting, was persuaded to continue another month when he finally quit of "my own accord". (R., 192.)

The only other witness presented by the appellant was Mr. Aage Sahlgaard (R., 192) who was a garage man and who, for a time, made examination of the trucks used in the business of the company for "preventitive inspections". (R., 193.) This inspection was for safety purposes (R., 197), was paid for by the owners of the trucks themselves (R., 197), was short-lived (R., 195) and was dropped because some of the older operators did not want it. (R., 196.)

Much immaterial matter has been included in the printed transcript. (See Record, pp. 208-218, 232 to 237, 240-249.)

Included in the transcript by designation of appellant (R., 250), is Treasury Department Ruling, dated July 22, 1944. (R., 218.) That ruling shows that on the authority of **Mutual Trucking Co. v. United States,** 141 F. 2d 655, prior rulings involving owner-operated vehicles have been revoked and that "the bureau has accepted the decision of the court as controlling in all cases involving the services of motor drivers".

As a matter of public record, it may be ascertained and determined that under similar circumstances as here presented refunds of taxes paid have been made by the treasury department in many instances.

QUESTIONS PRESENTED.

The case hinges upon the point as to whether or not the **"truckmen"** were **"employed"** by plaintiff for a **"wage"** within the meaning of the Social Security Acts which provide that there shall be "levied, collected and paid upon the income of every **individual** a tax equal to the following percentages of the **wages** received by him * * * with respect to **employment."**

Effective January 1, 1940, amendments to Sections 1426 (b) and 1607 (c) of the Social Security Acts under consideration define employment as meaning "any service * * * by an employee **for the person employing him** * * *". Similar language may be found in Section 1607 (a).

The second point, correctly decided by the lower courts, involves the arbitrary method of arriving at the assessments; and it is denied that the "amount of taxable wages" was determined under any agreement between the taxpayer and the collector. It is denied that any "wages" were paid.

The point involved in the case and decided correctly by the District Court is:

There was no employment involved, no wages were paid, and the act had no application whatsoever.

The assessment was arbitrarily arrived at.

The Circuit Court of Appeals affirmed in both respects.

FINDINGS OF FACTS REQUIRE AFFIRMANCE OF JUDGMENT.

The findings are not only supported by substantial evidence, but by uncontradicted evidence. The attempt to rebut the evidence of appellant passed to the vanishing point. The district court gave the evidence of Joe Garrison (R., 180) little, or no, credence.

Section 52 (a) of the Federal Rules of Procedure provides:

> "Findings of fact shall not be set aside unless **clearly erroneous** and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witness."

American Ins. Co. v. Scheufler, 129 F. 2d, 143.

Judgments may be reversed only for errors affecting **substantial rights** of the party.

U. S. Code, Title 28, Sec. 391.

Findings of fact may not be interfered with when based on substantial evidence.

Bereth v. Sparks, 51 F. 2d, 441;
Gary Theatre Corp. v. Col. Picture Corp., 120 F. 2d, 891.

Under the established rule, this court accepts the findings of the District Court concurred in by the Circuit Court of Appeals, **unless clear error is shown.**

Pick Manufacturing Co. v. General Motors Corp., 299 U. S., 3, 81 L. Ed., 4;
United States v. Commercial Credit Co., 286 U. S., 63, 76 L. Ed., 978.

The Truckman's Contract.

The evidence has shown performance of the independent contract (R., 97, 121, 131, R., 265). The relationship created was contractual and does not arise from tort.

The contract truckman provides all of the equipment, together with necessary pads, etc., required in the transportation which he undertakes (R., 117, 147). The truckman is obliged to hire (and he alone fires) any assistants required in the transportation, loading, unloading and delivery of shipments, and such employees are under his sole direction and control (R., 135). He furnishes, at his own expense, all packing and crating materials; public liability and property damage insurance upon his motor trucks, which insurance must cover jointly the liability of the company and the truckman "as their respective interests may appear"; provides a fidelity bond covering himself and his substitute drivers in the penalty of $1000.00 to cover any default in accounting for

freight charges collected; must make a cash deposit of $250.00 with the company to secure payment of damage claims for which he is liable and payment of amounts charged to his account on his direction and order, including gasoline purchased on credit cards; must account to the company for the cost of any or all loss or damage to the goods, wares or merchandise occurring while the same are in his custody, possession or control, other than such as are covered by cargo insurance provided by Greyvan. The company may charge to his account any loss, damage or expense which it may sustain because of his acts, and he agrees to indemnify the company therefrom; he agrees to keep his motor equipment in good mechanical and proper operating condition at all times, and to keep it clean. He pays the cost of operation of said motor equipment, (R., 119, 148) including property taxes, resident vehicle license, oil, fuel, tires, repairs, and all other costs incident to his ownership or operation; agrees to comply with all federal and state laws and regulations and the ordinances of each and every city, village and municipality where the trucks may be operated, and the rules and regulations of any governmental agencies having jurisdiction over the highway, including licensing, speed, etc., laws. He pays his own fines for any violation of laws for which he is responsible.

Agreement Is Indivisible.

The agreement is indivisible. While it necessarily requires his personal service or that of an authorized substitute, in order to perform the agreement, yet no specific sum is set apart for his labor in connection therewith. A

truckman who has business ability can make far more in the performance of this contract than he could if he were employed on a wage under a contract of hire. (R., 177.) The truckmen engaged by this company do make more than their employees under contract of hire make. He makes a profit, the same as if the independent contractor were engaged in the execution of an independent contract for the construction of a house. If a contractor in the building of a house is a good manager, he will have a profit above and beyond his own labor; if he is a poor manager, he may lose money and realize nothing for his personal service involved. So with the "truckman" under this contract.

History and Reasons for the Independent Contract.

This company was using independent contractors in the transportation business long prior to the enactment of the Federal Motor Carrier Act and the Social Security Acts. (R., 160, 161, 176, 177.)

The company was organized in 1929 and independent contracts were executed by it as early as the year 1930.

Singularly enough, the main reason for the adoption of the system of independent contractors was the lack of control which the company was able to exercise over an employee because of distance traveled. (R., 176.) Hence, there was developed a system whereby the transportation could be contracted to responsible owners of suitable equipment (R., 161) and the results accomplished by contract rather than by unsupervised employment.

Labor is necessary (1) in loading and unloading the goods into and out of the truck; and (2) in driving the

truck from point of origin to destination. (R., 105.) Under the system developed the independent contractor has the option of performing this labor himself or of employing others to do it. (R., 135.) Wherever the goods may be loaded, or unloaded, he may, if he desires, employ labor at that point for that purpose and he may only supervise and direct the loading or unloading; or, he may do part and hire the rest. The option is his. He may drive the truck himself; or he may hire someone to do it. (R., 148.)

The company found that an independent contractor, who owned his own equipment, gave it better attention, kept it in repair, and performance was often superior to that of its employees. (R., 176.) Consequently, it further developed a system whereby the independent contractors were rewarded for greater efficiency in performance by the payment of bonuses. (R., 114, 170; R., 272, 273.) The independent contractor had an opportunity to better himself far beyond what he could accomplish as an employee, and in bettering himself he promotes the interests of the company. An independent contractor, owning his own equipment, is interested in maintaining that equipment at its highest degree of excellence. Further, the more he does, the more his income. By engaging a driver, he can keep his truck moving during all the time permissible under regulations. He has no interest to dilly dally on the job since an idle truck makes him nothing, whereas an employee, in operation of company equipment, may have the opposite inclination. (R., 176, 177.)

Greyvan Lines, Inc., has no localized operation. (R., 340 et seq.) It maintains no garages or terminals at any

location. It operates from the homes of its customers and warehouses throughout the country, from whence it receives goods for transportation, or to which it makes delivery. Its operations covers thirty-eight states and the District of Columbia. The company may, for example, occasionally have a load for transportation from the vicinity of New York to El Paso or other far away points; and frequently loads from Kansas City, Minneapolis and Chicago to Miami, Tampa and other southern points; and loads originating en route may take the truckman to points far distant from the point of origin. The requirements of the transportation may take the equipment into territory which may be sparsely populated, and where the company cannot, under any circumstances, maintain equipment and personnel sufficient to supervise operations by its own employees.

The moving of household goods differs from the transportation of ordinary freight. In the former, the truckmen come into direct contact with the family; must please the housewife in every particular and be a diplomat in general. (R., 113, 163.) In fact, the moving of household goods approaches a custom service. The company cannot control the need or demand for such service, nor can it control the origin or destination of such shipments. They must take the business where and when it is available. The company is obliged to so manage the business as to have motor vehicle equipment available to meet the shipper's demand. (R., 145, 146.) Consequently, any one piece of motor vehicle equipment may be dispatched on irregular routes and on schedules most suiting the convenience of the shippers, to any part of the 38 states served by the company. And so, it is

not uncommon or infrequent that any one piece of motor vehicle equipment may be away from Chicago or points of origin two or three months. (R., 103.)

It is, therefore, impossible for the company to exercise supervision over the details of performance, the method and manner of performance, or the "physical conduct" of the driver of the motor vehicle equipment.

It is impossible to determine, with accuracy, the cost of operating equipment from one distant point to another under varying road conditions, climatic conditions, terraine, etc., if operated by an employee, particularly when the equipment may be on the highways without returning to base, for weeks at a time. (R., 146.) When the owner is personally in charge of the equipment, it is his loss when not operated economically and up to its full capacity.

Efficiency in loading is important. Unless efficiently loaded, neither the independent contractor or the company realizes maximum income from the transportation. The system of independent contracts in force encourages maximum use of available space and efficient loading and unloading.

The incentive to a man engaged in his own business to make a profit from the operation of his own equipment, creates in him a desire for excellence in performance. This indicates the necessity for and the advisability of, the company operating under the system of independent contractors wherever it can. (R., 163, 176.)[1]

The truckman may choose his own routes. He is not obliged to follow any particular route. He may depart

[1] The company is now operating exclusively with owner-operated equipment under contract.

from the shortest possible route if he desires, the excess cost being his to bear. In Pennsylvania, he may take the new super highway, paying the added cost of $7.50 for the use of it, or he may take the public highway. The option and the expense is his. (R., 103, 148.) **No control of the method and manner of operation of equipment is, or can be, exercised. These truckmen therefore are in a business of their own and not in any employment for Greyvan Lines, Inc.** (R., 163, 226, par. 24.) **Mutual Trucking Co. v. U. S.**, 51 F. Supp., 114, aff'd 141 F. 2d, 655.

Advantages of Operation Under Independent Contract.

These advantages were discussed by Mr. Prante in his testimony wherein he outlines nine different respects in which the contract truckmen differed from the employees in methods and purposes of operation. (R., 146 et seq.) A contract truckman could make more money for himself than if he were employed on an employment basis. Bossert, (R., 102); Parsley, (R., 126); Schertzberg, (R., 177) (and see also Exhibits J and K, R., 275, 276).

Union Contracts.

Counsel for the appellant refer to the Union Contracts: (R., 368, 374.) They do not refer to the fact that the contract (R., 368) covers the truckmen who "own and operate their own equipment and distinguish between such truckmen and employees of the company (R., 369, Section 1); and the supplemental contract (R., 374) was subsequently added to cover employees hired by the

[1] For distinctions between employees and owner-operators, see R., 146 et seq.

company to drive company owned trucks." Those contracts are immaterial in any aspect of the case. They establish no control and certainly do not establish a wage upon which a tax can be assessed when none was paid. The evidence will be found at R., 111, 143, 172 and 174.

We are of the opinion that this court will take judicial notice that, in these days, union affiliations, including the "closed shop", constitute a part of any contract—whether wanted or unwanted. Membership in a union is consistent with the independent contractor relationship. This court has so decided in **American Federation of Labor v. Swing, et al.**, 312 U. S., 321, 85 L. Ed., 855, originating in Illinois. In that case there was no immediate labor trouble between the employer and employee, but the trouble had arisen over an attempt to unionize a non-union shop. Employees of other employers had attempted to picket the beauty shop of the defendant. The following quotations from the opinion by Mr. Justice Frankfurter demonstrates the fact, for the court there says:

> "A state cannot exclude workingmen from peacefully exercising the right of free communication by drawing the circle of economic competition between employers and workers so small **as to contain only an employer and those directly employed by him.** The interdependence of economic interests of all engaged in the same industry has become a commonplace." (Op., p. 326.)

Compare also, the case of **Emard v. Squire, Collector**, 58 F. Supp., 281 (Wash. Dist. Ct., January, 1945), where fishermen "whose compensation was contingent upon a certain share of the revenue received from the gross

catch of fish" (Op., p. 286) and who had employees covered by a union contract, were held, notwithstanding, to not be subject to the Social Security Acts. Assessments were there made as in this case and judgment for recovery of the tax paid was awarded. The Court there held:

> "Where contract between union and salmon packing company insofar as it covered fishermen related to price per fish, deduction of union membership dues, etc., but fishermen were not subject to orders of the company as to when, where, or how they should catch fish, nor as to conditions under which they would carry on their operations, the fishermen were 'independent contractors' and not 'employees' within Federal Insurance Contributions Act."

The **Hearst Publications** case was held to have no application.

The impositions of labor unions cannot affect the contractual relation between Greyvan and its truckmen. It cannot create a "wage" when none otherwise exist. It cannot impose a tax when the payments to its contractors are nontaxable. The union contract, in itself, specifically recognizes the independent contractor relationship existing between Greyvan and its truckmen. (R., 369, Sec. 1.)

Compare Columbia River Packers Assoc. v. Hinton, 315 U. S., 143, 86 L. Ed., 750.

ANSWER TO APPELLANT'S BRIEF.

(a) In Statement of Facts.

(a) It is not the function of findings of fact (which are (B., p. 3) conceded to be "not inaccurate so far as they recite facts") to recite all the evidence. It is the function of findings of fact to state the ultimate facts upon which the judgment is based.[3] The findings do recite in detail much of the method of operation of the company and the method of arriving at the assessment. We cannot agree with the statement that the findings of fact "give no real picture of how respondent's business is carried on". To the contrary, the findings of fact (R., 219-227) were designed to and do state in great detail all the essential facts of the case. It was not necessary that the court recite all of the evidence in the findings, nor to give his reasons for so finding. The court was evidently not impressed with the evidence of Joe Garrison (R., 180), (an unsuccessful truckman whom he had before him and could best judge his credibility from his manner and appearance) and the testimony of Sahlgaard, as well as much of the testimony of Garrison, was immaterial to the case. Garrison's testimony was disputed in several respects (R., 175, 181). The findings were complete and are therefore controlled by Sec. 52 (a) of the Federal Rules of Procedure.

---

[3] See 53 Amer. Jur., p. 795, §1112, where it is said:

"It is well settled that findings of fact to be made by the trial courts in cases tried without a jury should be findings of the ultimate facts upon which the law must determine the rights of the parties, rather than evidentiary facts."

Compare *Wilson v. Merchants' Loan & Trust Co.*, 183 U. S., 121, 126; *The Francis Wright*, 105 U. S., 381, 387.

The lower court is bound to find the ultimate facts only, and not mere incidental facts amounting only to evidence bearing upon ultimate facts. *Merchants Mutual Insurance Co. v. Allen*, 121 U. S., 67; *Cohn v. Hartford*, 130 Conn. 699, 37 A. 2d, 237, 152 A. L. R., 604.

An examination of the contract (R., 265) is convincing that it has no elements of a contract of employment, but is strictly one creating an independent contractor relationship.

Note reference is made to R., 187, where Joe Garrison was not granted the privilege to have somebody else deadhead his truck from Virginia to Chicago. The contract requirement was that prior approval should be given to assistant drivers (R., 266). The reason therefore is apparent. Being no more successful than he was, his selection of an assistant might involve the carrier in vicarious liability for negligent operation of the van on the highways, under the Rules and Regulations of the Interstate Commerce Commission. That fact establishes no employment relationship and the request was a direct departure from the contract. His evidence was also subject to the scrutiny of the court as to veracity.

Certainly, the fact that truckmen took schooling before they started as contract truckmen cannot affect the existence of an independent contract subsequent to which time they acquired all equipment and began operating under the independent contract. The schooling was paid for by the company on employment basis. (R., 96, 97.) Many of the truckmen graduated from employment to contractors when they were able to acquire equipment of their own.

Some discussion is devoted to the operations of the chief dispatcher. Counsel for appellant overlooked the necessity in a large operation such as this of cooperation which, as evidenced in many businesses, does not require employment. Necessarily cooperation between

the truckmen and the company, including its dispatcher who was obliged to know the whereabouts of their trucks, whether operated by the company or by the truckmen was required. However, counsel are mistaken wherein they conclude that the dispatcher exercised control of details of the operation. His job was to know where the trucks were at all times and advise the truckmen when and where his next load would be available. (R., 145.)[4]

Advances to truckmen, which did not exceed a certain portion of their contract earnings, were made from time to time as illustrated by Exhibit G. (R., 274.) The fact that such an advance was made certainly does not affect the independent contractor relationship.

Regulations of the Interstate Commerce Commission (and the statute forbidding discrimination) require the carrier to either collect COD, or have approved credit. Collection of the accounts not on credit rating was a part of the contract itself. The contract could not be performed unless and until the truckman did what was required of Greyvan under the regulations and the law.

Some truckmen wore uniform, others did not. (R., 112, 170, 171.)

The truckmen had the right to take time off as they desired (R., 115, 117) and to refuse to accept loads, and some did. (R., 146, 147.)

[4] "There is no evidence that the dispatcher, or any other employee, instructed the owner-operators *how* to do this work. They knew *how*. He did not know how. (R., 158.) They needed no instructions in that respect. (R., 195). The truckmen needed only to know the *what* and *when*. This information was supplied to them by the dispatcher and by the 'Instructions to Truckmen.'" (Plaintiff's Exhibit B, R., 275.)

(b) Answer To Specifications of Errors To Be Urged.

We maintain that the findings of fact and conclusions of law entered by the District Court, and unanimously affirmed by the Circuit Court of Appeals in a most convincing opinion, are correct and there is no basis for reversal.

With reference to Specification 2, we assert that neither the District Court nor the Circuit Court of Appeals failed "to consider the economic facts of the relationship between the parties" insofar as they had application. Necessarily, the "economic facts" have no place in the consideration of this case, if the finding of the lower court that an independent contract relationship existed, is correct. As to economic facts, may we point out that the basic wage of an employee was only $36.00 per week for a part of the period covered by the assessment, and $42.50 for the remainder of the period (R., 177); that a "good man" could make a wage of only $185.00 to $200.00 per month if he worked full time (R., 177); whereas an average contractor could net at least twice that amount, and many made greatly in excess of that amount, as shown by Exhibits J and K. (R., 275, 276.) See the column "gross earnings", which in several instances, have run more than $1700.00 per month. Such "contractors" can take care of their own social security and they object to being classed as "employees". (R., 127.)

(c) Answer To Summary of Argument.

(1) Greyvan's contractors are not in the class of merely "earning their living"; they make a profit far superior to a wage in employment, as previously illustrated. They are not any more "subject to the hazards of unemployment" than other persons admitted to be independent contractors. For example: lawyers and doctors. Certainly a lawyer's business is dependent upon the continuance of the business of his clients; and his continuity of service is dependent upon the will of his client, yet the appellant does not contend that a lawyer is in employment. Many lawyers and doctors are economically dependent upon a sole client, which client furnishes their only source of income.

(2) Tort cases furnish no accurate rule for the interpretation of statutes (**United States v. Mutual Trucking Co.**, 141 F. 2d, 655). Such is the character of the **Rahn case**, 132 U. S., 519. All facts in this case illustrate the impossibility of Greyvan supervising the "means and manner" of performing the service which it engages the truckmen to do; necessarily no rules can control a truckman in "the details" of this work; and it is most impracticable and in fact impossible to send a company representative with a truck driver into the remote part of the territory in which it operates. An employed driver of a truck loading goods in Corpus Christi, Texas, is certainly impossible of control as to details, and manner and method of performance of the work, from Chicago, Ill., and all the company can do, and all it does do, is to tell the truckmen when to pick up a load and where to take it

for the purposes of delivery. "Instructions" to the truckmen refer to the written directions to the truckmen (R., 146) as illustrated on Plaintiff's Exhibit B (R., 274), and performance pursuant to its directions constitutes a part of the truckman's obligation under the contract. It is not a control of the means and manner of performance of the "details" of the job. While the truckmen's ownership of the van would not, of itself, prevent him from being respondent's employee, on the other hand his ownership of the truck and his operation of the truck under the respondent's certificate does not make him an employee of the company. The Motor Carrier Act not only does not prohibit such operation by Greyvan, but on the contrary, distinctly permits it. Motor Carrier Act, U. S. C. A., Title 49, § 303. (R., 257.).

(3) We submit that the effort of the collector to construct a payroll, and to create a "wage", where none in fact existed, and where neither the truckmen or the persons engaged by him, were Greyvan's employees, constitute the action of the collector arbitrary.

The burden of establishing that fact was fully met by the stipulation. (R., 25-26.) The inaccuracy of the enforced returns appears upon the face of the stipulation.

ARGUMENT.

Findings of Fact Establish Independent Contract Relationship.

The court found (R., 226):

"24. The relationship of employer and employee did not exist between the plaintiff company and the truckmen or between the persons employed by the truckmen to assist them in either the transportation work or in loading or unloading. The truckman was engaged in a business of his own, carried on by means of the use and operation of his own equipment for a lump sum paid in accordance with a prearranged schedule, out of which the truckman paid those whom he hired to assist in his driving, loading and unloading. Any surplus remaining to the truckmen from the payments made to them by plaintiff was retained by the truckmen, and if there was any deficiency, the loss was theirs. There was no obligation on their part to account to plaintiff for all, or any part of such payments. The degree of control over the hiring, paying, managing and discharging of his employees clearly stamped the employer-employee relationship as existing only between the truckman and his employees. No control, by plaintiff, over the truckman or his employees in any way inconsistent with the contract provisions existed. Such directions as are shown to have been given the truckmen were centered about the requirements provided by law for safety to the public and the safe transportation and delivery of the goods entrusted to plaintiff's custody."

The evidence fully supported the findings of facts.

Greyvan did not hire any of the employees of the independent contractors. Such of the independent con-

tractors as were called to the stand, including the single one called by the government (R., 186, 187), testified that they **hired, paid** and **fired** each of the employees designated in the enforced returns. See the agreed statment of facts, paragraph 7. (R., 25.) Plaintiff hired none of them. (R., 138.)

The appellant's assignment of error that there is no evidence to support the findings of the District Court is without merit or support.

Conclusions of Law Supported by Reason and Authority.

The following authorities from the long list of decided cases (see Appendix B) establish two propositions:

First. The relationship of employer and employee does not exist under the facts proven; and

Second. Nothing save an employment relationship wherein "wages" are paid, is taxable.

The trial court found (R., 227):

> "(2) During the periods involved in the amended and supplemental returns, plaintiff was not the employer of the persons so named, either specifically or otherwise, in said amended and supplemental returns. The truckmen specifically named in the amended and supplemental returns were independent contractors, and plaintiff was a principal. The persons included in the amended and supplemental returns under the designation of 'dummy' were the employees of the respective independent contractors, and not employees of the plaintiff."

In **Griff Williams v. United States**, 126 Fed. 2d, 129, involving liability for assessments under the Social Security Act, where the District Court found "control" to exist in twenty-two separate respects, the Circuit Court

reversed and held the contractor not liable for the tax, saying:

> "We have already concluded * * * that the establishments had no right to hire or discharge members of the orchestra. To our mind, this circumstance alone comes near being decisive. It is difficult to conceive of an employer-employee relationship without such a right on the part of the employer. It is equally inconceivable that such right should rest solely in the hands of the employee. Without this right, there could be no effective control by an employer." (Op., p. 133.)

Again the court says in the Williams case:

> "The status of the parties was plainly fixed by the contracts, including the rules of the Federation, and **there is no room for argument** that the establishments **had any right of control.**" (Op., p. 132.)

The Supreme Court of Ohio in **Commercial Motor Freight, Inc., v. Ebright,** 143 O. S., 127, 54 N. E. 2d, 297, where the facts were similar to those of the case at bar, involving independent contractors operating owner-operated vehicles for a common carrier, following the **Williams** case, says:

> "In the case at bar there was no authority upon the part of the appellant to hire or discharge employees of the owner-operators. This test has been held to be decisive of the liability of the employer for assessments under the Federal Social Security Act. Williams v. United States, 126 F. 2d, 129; McCain, Comm. of Labor, v. Crossett Lumber Co., 206 Ark., 54, 174 S. W. 2d, 114."

The Supreme Court of Ohio in that case adopted the following syllabus as applicable in the construction of

the statute which was held to adopt the same definitions with respect to employment as does the Federal Act:

> "A motor truck operator who, under contract, furnishes his own motor truck, including its fueling and maintenance, to a freight distributing corporation to haul with such motor truck the trailers of such corporation from point to point as directed, and for which he is compensated, according to the service rendered, determined either by the mileage covered or by the tonnage hauled, is an independent contractor and, as such, is not within the coverage of the state Unemployment Compensation Act."

Said Judge Hand in **Texas Co. v. Higgins**, 118 F. 2d, 636 (C. C. A. 2, 1941):

> "A persuasive reason for this conclusion, at least in the case at bar, is that Congress could scarcely have meant a man doing a business like Thomas's to enjoy the benefit of unemployment allowances; and if he was not an 'employee' his four assistants were not; the servant of a servant may be the master's servant, but the servant of an 'independent contractor' is not. **United Gas Improvement Co. v. Larson**, 182 Fed. Rep., 620 (C. C. A. 3)." (Op., p. 638.)

Again, from the same case, Judge Hand said:

> "Were the question presented to us for the first time, we should have no doubt that Thomas and his assistants were not 'employees' of the plaintiff; **the act appears to take over the term as the common law knew it**, and at common law they would not be employees. The regulation is in harmony with this assumption, for it enumerates the generally accredited determinants in such cases, of which the most important is the putative employer's control over the employee's business * * *." (Op., p. 638.)

Judge Chestnut of the Maryland District Court, in **Yellow Cab v. Magruder, Coll.**, 49 F. Supp., 605, in interpreting this statute said:

> "It is obvious from the statute and regulations that the tax is not payable unless (1) there is an employer and employee, and the relationship of employment between them; and (2) wages are paid by the employer to the employee." (Op., p. 606.)

The Circuit Court of Appeals, in affirming the last cited case, 141 Fed. 2d, 324, says:

> "It is crystal clear that two essential conditions precedent must concur in order that a valid tax may be here levied: (1) there must exist a relationship of employer and employee; (2) wages must be paid by the employer to the employee. In no uncertain terms, Judge Chestnut negatived the existence of both of these conditions precedent. To say, under the terms of Federal Rules of Civil Procedure, Rule 52(a) that Judge Chestnut's findings and conclusions are not 'clearly erroneous,' . . . we think, largely in the nature of an exaggerate euphemism." (Op., p. 325.)

Judge Barksdale of the District Court of Virginia decided a very similar case in **Burruss et al. v. Early, Coll.**, 44 F. Supp., 21 (1942), where certain persons, engaging their own employees, operated a saw mill for lumber dealers and wherein the government contended that both the saw mill operators and their employees were employees of the lumber company. The case presents a fair parallel to the operations of the plaintiff in this case, and there the court held as conclusions of law:

> "(2) That the persons named in defendant's assessments who operated sawmills sawing plaintiff's lumber were independent contractors, and that

neither they nor their employees were employees of plaintiffs.

(3) That those persons named in defendant's assessments who hauled lumber for plaintiffs, were independent contractors, and that neither they, nor their employees, were employees of plaintiffs." (Op., p. 29.)

In **Jones, Collector, v. Goodson et al., Receivers,** 121 F. 2d, 176, Bratton, C. J., says:

"The tax is confined to cases where that relationship (employment) exists. It does not extend to instances where persons performing services are independent contractors." (Op., p. 179.)

In **United States v. Aberdeen Aerie,** 148 F. 2d, 655, the Government endeavored to assess the social security tax against the Order of Eagles arising from the services of physicians engaged to treat members of the Order. It was claimed that they were employees and not in the class of independent contractors. The court held the Order was not taxable with respect to the services of physicians, saying "there can be no comparison between the control exercised or capable of being exercised in that case[5] and the case at bar."

The appellant also cites **Nevius, Inc., v. Rothensis,** 151 F. 2d, 189 (C. C. A. 3), affirming 58 Fed. Supp., 460. Plaintiff recovered the tax. In that case in 1941, the owner of a chain of drug stores negotiated contracts with his employees changing the basis of the arrange-

[5] The appellant relies and quotes at length from United States v. Vogue, Inc., 145 F. 2d, 609, where the court held the establishment properly taxable on amounts paid a seamstress making alterations in garments for, and in the store, using a sewing machine furnished by the store and observing the same hours as store employees, but paid by the piece.

ment to an independent contract and thereafter the former employees operated the individual stores under a contract to buy exclusively from him. Holding the payments not to be wages, and the services not employment, the court states that the chief result was to establish a "business in the licensee (where he) had a personal interest which was more nearly the interest of an owner than anything else. He could make or lose money in the business. The possibility of profits could be enhanced by efficiency, economy and skill." (58 F. Supp., p. 462.)

This reasoning is very similar to the results accomplished by Greyvan in the use of its independent contractors instead of employees engaged on a menial basis.

Many of the cases cited do not present a comparable basis of fact to the Greyvan case. The **Bartels** case, 157 F. 2d, 295, involved a wholly different contract and it is distinguished from the Williams case on the facts, it being pointed out in the opinion of that case that a wholly different contract than that involved in the Williams case was involved in the Bartels case, and that the leader of the orchestra refused to perform unless the proprietors of the ballrooms assumed the relationship of the employers of both the leader and the members of the orchestra. (Op., p. 301.)

We have no such operation as that involved in the **Vogue** case, 145 F. 2d, 609, where a seamstress furnishing nothing save her service, or as that in the **Grace** case, 148 Fed. 2d, 679, which involved colored coal hustlers engaged for the purpose of putting coal in basements for a coal dealer, and who was not paid for the job performed until he (1) finished the job assigned,

(2) secured the signature of a satisfied customer, (3) returned dutifully to appellant's office and (4) presented a signed card and drew his money for the job. We most seriously protest being enmeshed in the vortex of this line of cases.

We are not in that class of cases relating to barbers and beauty shop operators, who furnish nothing save simple tools and work directly under the surveillance of the proprietor of the shop (**McDermott v. State**, 196 Wash., 261; 82 Pac. 2d, 568 (1938)), nor are we in the position of formulating a subterfuge for the sole purpose of avoiding payment of the tax to those in fact in employment. (R., 222.) Our contracts antedated the effective date of the act by at least five years.

In **Czark Minerals Co. v. Murphy, Director**, 384 Ill., 94, 51 N. E. 2d, 197 (1943), there was involved a contract for mining silica on property furnished by the Ozark Minerals Company, the persons with respect to whom the tax was assessed having agreed to furnish an ample supply of crude silica as requested by the company from time to time to meet its operations. The trial court held that such persons were not employees and dismissed the petition for recovery of assessments. The Illinois statute covered "employment * * * performed for wages or under any contract of hire * * *."

The Illinois Supreme Court sustains our position, saying:

> "That the General Assembly intended to tax only employing units upon the wages of employees and not independent or subcontractors, is clearly shown * * * to constitute 'employment' it was required that there be services performed for wages or under a contract of hire. Here, there were no wages, nor

"was there a contract of hire. * * * The contract did not provide for compensation for labor but for a tunnel or for a ton or tons of silica mined and ready for loading. It cannot be said that the owner of a lot who engages an independent contractor to dig a cistern of named dimensions and to pay, for such cistern, a stated sum per cubic yard for the excavation, when finished, is paying wages, any more than it could be said that if A contract with B and C to build a barn on his farm he is paying them wages for such construction. In such case, what A is paying for is a barn and not wages." (Op., p. 201.)

See also the same holding in **Gabel Mfg. Co. v. Murphy**, 390 Ill., 455, 62 N. E. 2d, 401. (1945).

Another is **Crossett Lumber Co. v. McCain, Commissioner of Labor**, 205 Ark. 631, 170 S. W. 2d, 64 wherein the lumber company was a large producer of lumber, owning and operating large plants, and had about 1,650 employees on its own payroll for whom it paid social security tax. About 1934 it contracted out a large portion of its logging operations and entered into contracts with persons who "furnished their own equipment, who hired and fired their own employees, and who were paid according to the owners' current published rate schedule in effect at the date of delivery," at so much per thousand feet. In 1941 Linder, a timber cutter, filed a claim for compensation under the act, claiming to be an employee of the lumber company. A large number of similar claims were filed by both the contractors and the employees of the contractors. In reversing the lower courts, the Supreme Court of Arkansas said:

"It appears to us that the evidence is wholly undisputed that the contractors were in fact and in

law independent; that they hired and discharged their own employees; that they paid them; that either the contractors or the men furnished their own equipment, tools, trucks, saws, axes; that the men were paid by the contractors on a 'piece' basis; that while appellant has a record of the amount paid to the contractors, based upon its current published schedule, it has no record of the amount paid by the contractors to the men nor did it know the men so employed; and that there was no control exercised by appellant over the contractors or the cutter, except as to the result to be accomplished. The fact that the written contract between appellant and its contractors reserves the right of either to terminate the contract on three days notice is not determinative of the question." (Op., p. 68.)

The Mississippi Supreme Court in **Texas Co. v. Wheeless**, 185 Miss., 799, 187 So., 880:

"In other words, they are capitalists, investors and employers, instead of men whose services are to be be had for hire." (Op., p. 887.)

We deem it unnecessary to further extend quotations from authorities sustaining appellee's position. Citations to many of the cases appear in Appendix B.[5]

[5] We submit that the contractors in this case were "independent entrepreneurs" as much as the owners of the vessels involved in *Columbia River Packers Assoc. vs Hinton*, 315 U. S. 143, 145; 86 L. Ed. 750, 752.

Contract is Determinative of the Intention of the Parties.

The contract plainly provides for an independent contractor relationship. It was of the same character involved in **Texas Co. v. Brice**, 26 F. 2d, 164. (C. C. A. 6), certiorari denied 278 U. S., 640, where "H" agreed to distribute the company's products by motor trucks owned by him and to be responsible for all the acts of the agents, employees and servants. The court there said:

> "Lacking such express provision (making servants of the agent his servants) it may often be proper to infer as some of these cited cases do, that there is privity between the principal and sub-agent; not so when 'the status of each party is fixed by the unmistakable word' (citing cases)." (Op., p. 167.)

This case was followed by **Howard W. Luff Co. v, Capece**, 61 F. 2d, 635 and **Craige v. Austin Powder Co.**, 91 F. 2d, 664, (C. C. A. 4).

The same rule was followed in **Ellis v. Associate Industries Insurance Corp.**, 24 F. 2d, 809, (C. C. A. 5), affirming 16 F. Supp. 2d, 464, which involved a claim under the Texas Workmen's Compensation Act. "W" was obliged to hire his own help which the contract provided were under his direction and control. An employee of "W" received injuries resulting in his death. The question presented was whether, under the circumstances, Ellis was an employee of "W" or American Refining Company. The court said:

> "On the facts in this case, considering the terms of the contract between Warren and the refining company and that the latter did not pay his wages, had nothing to say regarding his employment or discharge, and did not have control or direction of him

> in any way, we conclude that Ellis was not an employee of the refining company and appellee was not liable to appellants for compensation." (Op., p. 810).

As held in **Glenn v. Standard Oil Co.**, 148 F. 2d, 51, (6 C. C. A., 1945):

> "That the relationship as to whether it be an employer-employee, or independent contractor relationship, 'is to be determined by rights and obligations assumed as disclosed in terms of written contracts between the parties, as well as any actual practice of parties dealing with each other'."

Our evidence conclusively showed that Greyvan had at all times treated the truckman as an independent contractor and not as an employee. The District Court found that the provisions of the contract were adhered to by the parties. (R., p. 226.)

For the same holdings, see:

Industrial Commission v. McAdow, 126 O. S., 198, 184 N. E. 759;
Williams v. United States, 126 F. 2d, 129;
Sater v. Cities Service Oil Co., 291 N. W., 355;
Magnolia Petroleum Co. v. Gryich, 206 Ark., 352, 176 S. W. 2d, 435 (1943).

History of the Act Dispels Any Construction That Plaintiff Is Taxable With Respect to Any Part of the Payments Made to Its Independent Contractors; or With Respect to the Wages Paid by the Independent Contractors to Their Helpers Whom They Hired, Paid and Fired.

Counsel for the appellant argue and insist that the independent contractors and the helpers whom they engaged for a limited period of time for the purpose of assisting in loading and unloading the household goods, are within the class of persons intended to be included in the Social Security Act. The assertion gets counsel for the appellant no place unless they can show that Congress did, in fact, include them within the confines

of the act. However, counsel are in error in that contention as displayed by the history of the acts to which we now turn.

The Federal Social Security Act, which became effective August 14, 1935, was passed to achieve a program of social security by cooperation between the federal Congress and the several state Legislatures. The committee on economic security appointed by the President to make recommendations, made report on January 15, 1935, in which it recommended encouragement of "stabilization of employment" by the states and outlining a program which "will permit social and industrial stability." (See Report to the President dated January 15, 1935.)

As this court later said:

> "That act laid the foundation for a cooperative endeavor between the states and the nation to meet a grave emergency (unemployment) problem; and it found a method by which the state and the federal government could 'work together to a common end.'"

See:

Steward Machine Co. v. Davis, 301 U. S., 548, 81 L. Ed., 1291;

Buckstaff Bathhouse Co. v. McKinley, 308 U. S., 358, 84 L. Ed., 322.

In the last cited case the court says:

> "* * * Under the coordinated field which the act visualizes, when Congress brought within its scope various classes of **employers**, it in practical effect invited the states to tax **the same classes**. * * *" (84 L. Ed., 326.)

With this purpose in mind, it cannot be denied that the act was, of necessity, applicable only to employers having the power to hire and discharge their own employees, to determine their hours of labor, their conditions of work. Such employers could undertake adequate steps to stabilize employment. In this case, the independent contractors alone have those powers over the men whom they hired, controlled, paid and fired. Therefore, the independent contractors must be treated as the employers of their assistants, if the purpose of the act, "stabilization of employment," is to be effectuated.

Said Bratton, C. J., in **Jones v. Goodson**, 121 F. 2d, 176:

> "The tax imposed upon an employer is denominated an excise tax, and it has been judicially determined and sustained as such a tax levied upon the privilege of establishing and maintaining the relationship of employer and employee. Steward Machine Co. v. Davis, 301 U. S., 548; Helvering v. Davis, 301 U. S., 548. **The tax is confined to cases where that relationship exists. It does not extend to instances where persons performing services are independent contractors.**" (Op., p. 179.)

As said in **Texas Co. v. Wheeless**, 185 Miss. 799, 187 So., 880, in quoting from a prior case and citing **Steward Machine Co. v. Davis**, supra:

> "It is well known that many persons employed have not the prudence and ability and foresight to provide in advance, if left to their own initiative, for need in times of stress and unemployment. They are usually employed at a wage that barely meets the needs of current living expenses; they have but little power to control what compensation they shall receive for their labor; and usually have not the means to withstand unemployment for any consider-

able length of time without suffering for the necessities of life. (Op., p. 887.)

"Such was the meaning of the term 'employee' under a contract of hire at common law, and this definition has been followed in the judicial prudence contained in the decided cases. It is presumed to have been employed in this sense in the present statute." (Op., p. 888.)

Assuming the purposes of the Social Security Acts to be correctly stated in the foregoing, Greyvan's truckmen did not come within that classification. Greyvan could not make truckmen out of mere menial servants. They were required to be business men—a high grade man—a self-starter — resourceful and diplomatic — also a man who doesn't hesitate to get his hands dirty, a man competent to measure values—to know where he is going in a business way—as well as a man capable of understanding the rules and regulations of the ICC and also competent to load and unload the equipment in an efficient manner and to operate the equipment. (R., 163.) Also a man whose appearance was presentable, as "you can't deliver Mrs. Astor's furniture in overalls". (R., 113.) The District Court himself developed the "economic facts of the relationship between the parties" (Appellant's Brief p. 24) in the testimony of Mr. Schertzberg when he brought out (R., 176, 178) the fact that these truckmen did not come within the definition referred to above but instead were businessmen of their own, using their own investment running up to $5,000.00, (R., 116) making an income far superior to that of an ordinary menial servant, (R., 102) out of which they had ample funds to take care of their own social security instead of relying upon an arm of the government to do it for them.

Congress, in 1939, had before it for consideration a change of the basis of taxation, consideration of a bill to extend the application of the acts to certain other relationships other than employer-employee. The attempt was debated in Congress during the summer of 1939 and an amendment was adopted in the House which included:

> "* * * any individual, who, for remuneration (by way of commission or otherwise) under an agreement or agreements contemplating a series of similar transactions, secures applications or orders or otherwise personally performs services as a salesman for a person in furtherance of such person's trade or business (but who is not an employee of such person under the law of master and servant) unless * * *" (See Report of Rep. Doughton of Committee on Ways and Means, dated June 2, 1939, to accompany H. R. 6635, pp. 109-10.)

In the Senate, the finance committee struck out the proposed amendment, saying:

> "Definitions of employee and employer — The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law **which limits coverage to employees.** * * *" (Report of Senator King for the committee dated July 7, 1939, to accompany H. R. 6635, p. 75.)

The conference committee sustained the Senate saying:

> "Amendments Nos. 97 and 98—The House bill extended coverage to certain salesmen **who are not employees** * * *. It is believed inexpedient to change the existing law **which limits coverage to employees.** The House recedes." (Conference Report of Rep. Doughton, dated August 4, 1939, to accompany H. R. 6635, p. 14.)

As said in the opinion of Mr. Justice Cardozo, in **Norwegian Nitrogen Products Co. v. United States,** 288 U. S., 294, 77 L. Ed., 796:

> "The history of the statute as it passed through the two houses of the Congress supplies confirmatory evidence." (Op., 77 L. Ed., p. 802.)

The history immediately referred to supplies confirmatory evidence that the employer-employee relationship, as known at the common law, was to be taxed with regard to **employment** on a **percentage** of the **wage** paid. Since no **wage** was paid in the case, the case ends with the determination of that fact. (See Findings of Facts, ¶25, R., 227, Exhibits D, F and G, R., 274.)

ASSESSMENTS WERE ARBITRARILY MADE.

Greyvan's agreement with the truckmen was indivisible. That agreement was to pay a stated amount for the completed transportation which the contract truckman undertook to consummate. **Commercial Motor Freight, Inc., v. Ebright,** 143 O. S., 127, 54 N. E. 2d, 297, 151 A. L. R., 1321. Amounts to which the truckman, as an independent contractor, was entitled on each particular haul were determined in advance from the schedule attached to the contract. There was no amount specified for wages and no amount specified for the use of the equipment, expenses, investment, maintenance or **profit.** The collecter could not divide anything which the parties themselves did not attempt to divide and which cannot, in the nature of the thing, be divided. He could not renegotiate the contract between the truckmen and Grey-

van, nor could he substitute one of his own making in place thereof.

No wages were paid to the truckman; nor were any one of the employees or the contract truckmen on the payroll of Greyvan. The contract truckman was the paymaster of the persons whom he hired, controlled while in his employ, and fired at the conclusion of the employment, or sooner, if he desired.

How the collector can justify an attempt to break down this contract and segregate a "wage" on which to apply the percentage of tax specified in the statute, we cannot comprehend. Such action was arbitrary, unjustified and unlawful.

The stipulation (R., 25, par. 8) shows the method and the manner of arriving at the computations made by the collector. He forced a "payroll" for Greyvan in the manner therein stipulated. Exhibit G (R., 45-62) shows the manner in which it was done. Under the column "Name of Employee" on each page of this exhibit (except the final sheet), the contract truckman's name was written therein. The three months period for which the assessment is made is indicated in the proper column. Under the column "Amount of Wages Actually Reported on Return" is found the word "none." Under the column "Correct Amount of Wages" is inserted the amount arrived at by the artificial means of producing a pay roll. Attention is called particularly to the first column "Employees Account No." The word "unknown" appears throughout the whole series of the enforced supplemental returns.

Attention is called to the last sheet of Exhibit G (R., 62), where, under the column "Name of Employer" there

is extended the word "Dummy." These covered helpers who were employed and paid by the various truckmen themselves, and whose estimated wages were arbitrarily arrived at in the manner set forth in paragraphs 8(b) (R., 26) of the stipulation. The names of such persons were entirely unknown to Greyvan. They had no records from which the identity of such persons could be ascertained. (R., 62, 137.) No consideration was given to such portion of that labor as was furnished by warehouses throughout the country and upon whose wages, it must be presumed, social security taxes were paid by the owners of such warehouses and the employers of such labor, as required by the law (R., 167.)

That the action of the collector was not only arbitrary, but inconsistent, is also demonstrated by the fact that certain of the truckmen were employers, had employers' numbers, and paid the social security taxes with respect to their own employees.

The Supreme Court of Ohio in **Commercial Motor Freight, Inc. v. Ebright**, 143 O. S., 127, 54 N. E., 2d, 297, (1944), said with respect to a similar method of determination of a tax:

> "It must be conceded that the assessment of premiums, under the Unemployment Compensation Act, is made upon 'wages' resulting from employment. It seems untenable, in the absence of legislation for that purpose, to claim that any part of compensation paid for transportation involving the use of a truck and the service of its operator can be segregated and designated as 'wages'. The General Assembly has not seen proper to make any provision for this very important determination, if permissible. On the other hand, the problem must be one of such frequent occurrence that it can scarcely be said to have

escaped the attention of the statute makers if they had intended to recognize such a computation of wages in such cases. This court should not be called upon to supply any such omission, on the part of the General Assembly, if it was an omission. **Yellow Cab Co. of D. C., Inc. v. Magruder, Coll.**, 49 F. Supp., 605; **Lake Shore Electric Railway Co. v. Public Utilities Commission**, 115 Ohio St., 311, 154 N. E., 239."

In **Iselin v. United States**, 270 U. S., 245, 70 Law Ed., 566, the court held:

"Courts cannot supply omissions in internal revenue laws."

In the opinion of Mr. Justice Brandeis, the court says:

"What the government asks is not a construction of the statute, but, in effect, an enlargement of it by the court, so that what was omitted, presumably by inadvertence, may be included within its scope. To supply omissions transcends the judicial function of deciding cases." (Op., p. 251.)

The omission in the present act was not an inadvertence, but was the considerate judgment of the Congress.

Counsel for the appellant's claim that Treasurer Shearer agreed to the "allocation." Without questioning whether such an agreement would be beyond his authority, or supported by a consideration, no such agreement was made. Such an agreement was expressly denied by Shearer (R., 141) and the appellant put on no witness to prove the contrary. The effect of the testimony was, that if the plaintiff was liable for the tax, the amount was not controverted. The court sustained our objection to the question as to whether there was "controversy about the amount of wages." (R., 141.) Further-

more, we introduced no evidence as to the correctness or incorrectness of the computations but content ourselves on the proposition that there was no wage paid, and there is no tax payable because the truckmen were not employees within the meaning of the Social Security Act. Why the appellant insists upon it we cannot understand, because, if there is a liability for the tax such liability exists irrespective of any agreement with Treasurer Shearer.

REGULATIONS OF TREASURY DEPARTMENT.

Regulations of the Treasury Department are printed by the appellant in Appendix, p. 53 et seq. They have no application whatsoever to the case presented by the record.

Judge Learned Hand in **Radio City Music Hall Corp. v. United States**, 135 F. 2d, 715 (1943), said:

> "We accept Article 3 of Regulations 91 as an authoritative definition of the distinction between an 'employee' and an 'independent contractor'; it is really no more than a gloss upon the definition contained in Justice Gray's opinion in Singer Manufacturing Co. v. Rahn, 132 U. S. 518, 523. We assumed its conclusiveness in Texas Company v. Higgins, supra, (118 Fed. (2), 636, 638), and so have the Tenth Circuit (Jones v. Goodson, 121 Fed. (2) 176, 179), and the Seventh (Williams v. United States, 126 Fed. (2), 129, 132)." (Op., p. 717.)

In **Yellow Cab Co. v. Magruder, Collector**, 49 F. Supp., 605 where lessees of taxicabs were attempted to be taxed, the court, Judge Chestnut, said:

> "Where the alleged taxpayer has no right to demand an accounting from the alleged employee, it

would seem impossible for him to compute and pay the tax. The facts in the instant case illustrate this very difficulty." (Op., p. 611.)

The Circuit Court of Appeals in affirming the judgment, 141 F. 2d, 324, of the District Court granting recovery of the tax say:

"Judge Chestnut also aptly pointed out the difficulties, which are many and obvious, in administering this tax statute if it be held to cover the activities of Yellow Cab and its drivers." (Op., p. 326.)

As shown by the record (R., 218), following the decision of the case of **Mutual Trucking Co. v. U. S.**, 141 F. 2d, 655, on April 17, 1944, the Commissioner of Internal Revenue, by mimeograph dated July 22, 1944, reversed his previous decisions under which this line of cases had arisen and accepted the holding in **Mutual Trucking Co. v. U. S.**, as dispositive of these questions.

Contemporaneous construction of the treasury department's regulations by those charged the enforcement of such regulations is entitled to respectful consideration and will not be overruled except for weighty reasons. **Fawcus Machine Co. v. United States**, 282 U. S., 375, 75 L. Ed., 397. And this should be particularly true where the collector failed to act until after March 31, 1942, whereas the acts became effective January 1, 1936 and 1937.

In order to support the theory that cases in the "borderland" should be controlled by "economic factors", appellant endeavors to twist out of the plain language of the regulations a requirement of economic independence.

The regulations neither state nor infer any such test. The explanation of the control test in the regulations follows immediately after the statement that:

> "Whether the relationship of employer and employee exists will, in doubtful cases, be determined upon an examination of the particular facts of each case."

which clearly indicates that such test is intended to apply in such cases. It is common knowledge that the common law test has been used in administering the law from the beginning. The present attempt to induce this court to adopt an economic test is merely an attempt to broaden the coverage of the act through judicial legislation. In relying upon the quotation from the ruling of the appeals counsel in **Matter of William Edward Stanley**, Case No. 12-338, (Silk Brief p. 39,) the appellant is merely trying to pull itself up by its own boot straps, since the ruling merely expresses the argument which appellant was making in the lower courts at the time the ruling was written in the cases now before the court.

The argument (Silk Brief, p. 41) that the courts should construe the law in accordance with the desires of the Social Security Board falls of its own weight, unless congress has plainly granted the power.

THE ISSUE OF CONTROL.

The appellant here, as in the courts below, has failed to draw a proper line of demarcation between cooperation and control.

Further, the factual question is resolved against the appellant by paragraph 24 of the findings of fact. (R., p. 226.)

Neither the common law rule as applied in tort cases or elsewhere has application. The statute furnishes the sole test with reference to who is or who is not taxable. It does not depend upon whether one exercises control; therefore, the Circuit Court of Appeals and the District Court were correct in holding that the evidence as a whole conclusively showed the existence of the independent contract relationship and the payment of no wage, which took the case without the statute.

Control v. Independent Contracts.

"Independent contractor" and "servant" are defined in the **Restatement of the Law of Agency**, page 11, section 2, as follows:

> "(2) A servant is a person employed by a master to perform service in his affairs whose **physical conduct** in the performance of the service is controlled or is subject to the right to control by the master.
>
> (3) An independent contractor is a person who contracts with another to do something for him but who is not controlled by the other nor subject to the other's right to control with respect to his **physical conduct** in the performance of the undertaking."

The subject "right of control" is discussed in **27 Amer. Jur.**, Section 7, p. 488, as follows:

> "The control of the work reserved in the employer which effects a master-servant relationship is control of the means and manner of performance of the work as well as of the result; an independent contractor relationship exists where the person doing the work is subject to the will of the employer only as to the result, but not as to the means or manner of accomplishment."

In **Texas Co. v. Higgins**, 32 F. Supp., 428, determining there was no liability for assessments under the federal act, it was said:

> "It has been held that even a considerable degree of control does not of itself change the status of an independent contractor into that of a servant." (Op., p. 430.)

It is well recognized that a measure of control does not affect the independent contractor relationship when such supervision is inherent in any joint undertaking.

Radio City Music Hall Corp. v. United States, 135 F. 2d, 715, 718;

Los Angeles Athletic Club v. United States, 54 F. Supp., 702, 706;

Schatz Pollock Woolen Co. v. Murphy, Director, 348 Ill., 218, 51 N. E. 2d, 147, 148.

As said in the **Los Angeles Club case**, supra, in holding that there was no employment:

> "What appears here to be control can be more aptly described as requests that certain things be done, and the mere fact that the requests made have been complied with does not prove the right of control in the establishments of plaintiff. **Williams v. United States, supra.** Viewing the evidence in its entirety it is clear that any direction exercised by the plaintiff falls short of the right of control necessary to constitute plaintiff the employer of the orchestra members." (Op., p. 706.)

Compare **Metcalf & Eddy v. Mitchell**, 269 U. S., 514, 521;

Underwood v. Commissioner, 56 F. 2d, 67, 71; **Schroepfer v. Abell Co.**, 48 F. Supp. 88, 96; aff. 138 F. 2d, 111; cert. denied, 321 U. S., 763.

The definitions of who are subject to the National Labor Relations Act and the Fair Labor Standards Act are not to be found within the Social Security Acts or any of the acts quoted or referred to in the cases cited in Appendix B. Consequently such cases as **Walling v. Rutherford Food Corp.**, 156 F. 2d, 513, **National Labor Relations Board v. Hearst Publications**, 322 U. S., 111, have no application here.

The Manual for Truckmen.

The main hold of the appellant is on the "Manual for Truckmen" introduced in evidence as the Government's Exhibit 1. (R., 276.) The argument is entirely beside the point since there was no employment, no wages, and consequently could be no tax. (**Williams v. U. S.**, 126 Fed. 2d, 129.)

The District Court disregarded the exhibit because the evidence showed that the manual, while prepared and distributed, was never enforced or relied upon, and was used only for the information which it contained to a new truckman starting in the business or as a reference book. (R., 104, 150, 154, 171 and 257.)

In the first instance, the period involved is from January 1937, through the first three months of 1942. The manual was not distributed until April 20, 1940, so that it can have no effect whatsoever upon that part of the assessment preceding April 20, 1940. (R., 140.)

Secondly, the independent contracts date back to 1929, long prior to the enactment of the social security legislation. As established by the evidence, operators of this equipment traveled far and were away from Chi-

cago and the offices of the company and under no supervision whatever for weeks and even months at a time. It was impossible for the company to supervise the **details of their operations**, which character of supervision goes hand in hand with an employer-employee relationship. Growing out of early lessons, the company found it advisable to obtain the services of a business man (not a mere menial servant) who had sufficient business capacity to properly handle the customers of Greyvan, (R., 163) who by means of a large investment and solicitation of business throughout the 38 states served, it had been able to procure. (R., 119, 162, 163.) A large majority of its customers were householders, mainly women, (R., 113) who had pride of ownership in the household goods to be moved and many of whom were extremely hard to please. The business is different from a general trucking business where commercial establishments call when there is property to be transported; the business is scattered as people seldom move from city to city. (R., 136.)

On company operated equipment, employees occasionally failed to keep the vans moving, were reckless in handling the company equipment, unnecessarily damaged the shippers' goods, adding expense, for which and other reasons it was decided imperative to secure persons who owned and operated their own equipment, even though it became necessary to divide with them a larger share of the profits than would have been necessary under an employment relationship. (R., 102, 176, 177, Exhibit J and K, R., 275, 276.) The truckman was an employer and in business for himself. (R., 127.)

Thus the independent contract relationship came into existence and would have been used 100 per cent during the time involved if conditions had permitted. (R., 177.)*

With this history in mind what became of the manual? The three former employees who prepared the manual overlooked the impossibility of enforcing the provisions of the manual. Being impossible of enforcement, the company as to the owner-operators never endeavored to enforce it. (R., 171.) The truckmen and dispatcher paid no attention to the manual (Bossert, R., 104; Prante, R., 150, 151.) Provisions with reference to uniforms were not enforced. (R., 103, 113, 171, 179.)

A single former truckman, one Joe Garrison, out of the 50 to 60 truckmen involved, was produced. He had been a failure and voluntarily quit. His understanding with reference to the manual were assumptions of his own, not any instructions that he received from any of the officials of the company, and the assumptions were stricken. (R., 185, 186.) He remembered no conversation with any company official in connection with the manual. (R., 186.)

Even the witness, Garrison, supported the company in most of his testimony. Five truckmen were considered to have testified cumulatively in support of the testimony of Mr. Bossert (R., 141), and there was no evidence of probative value to contradict the testimony submitted by the plaintiff that the manual was impractical and never was enforced. In fact, dispatcher Prante testified that he never saw the book, let alone use it. (R., 150, 151.)

* It is now being used exclusively.

The manual was not adhered to and not enforced; it was used solely for the purpose of the information which it contained; not as a directive. (See particularly, distances, R., 329; and location of parking lots, agencies and branch offices, R., 339-368.). For the reasons heretofore stated, it was useless as a directive to the truckmen.

The following cases hold such directives do not affect the independent contractor relationship.

Griff Williams v. United States, 126 Fed. 2d, 129;
Radio City Music Hall Corp. v. United States, 135 Fed. 2d, 715;
Standard Oil Co. v. Glenn, 52 F. Supp., 755, aff'd 148 F. 2d, 51;
United States v. Davis, 154 F. 2d, 314 (U. S. Ct. of App., D. C., 1946).

The manual has no place in this case. It cannot establish the basis of taxation necessary in this case. The basis of taxation is wholly lacking in this case, control or no control. To set aside the company's contracts with its truckmen and to renegotiate such contracts, in order to establish a wage basis upon which the percentages mentioned in the statute can be applied, is legislating. This is what the collector did. Certainly the court will

At appellant's brief, (page 14) is given an excellent example of the "Williams" concept of the manual. It was constructed by three visionary part time employees (R., 171). Dispatcher Prante, who had immediate contact with every truckman, never discussed the manual with them. "I never referred to it, never had occasion to refer to it". (R., 151).

In reply to appellant's brief (page 38), the manual does show detail which the truckmen already knew and which they were able to perform without instructions from a written text book and, as the witness put it, "carried the manual with him, but "half the time, he didn't know where it was" and "used it as a reference book more than anything else". (R., 194). Ten men would so testify. (R., 120). Most of the truckmen had experience and were trained before entering Greyhound's service. (R., 194). The location of parking lots was furnished by means of circulars issued from time to time. Company officials had never seen some of the lots (R., 8).

not sustain such attempt at legislating. It is his job to enforce the statutes as they stand; not to rewrite them. That job can safely be left to Congress, whose members are elected by the people.

Whether this court can construe the manual irrespective of the District Court's judgment and findings is immaterial, since the District Court sustained us on the point that the manual was never effective or enforced; consequently further consideration of that point drops from the case.

This finding of the District Court was fully approved by the Circuit Court of Appeals. (R., 257.)

Parking Lots. Parking lots were generally gasoline stations located in various localities through which Greyvan did business. At these points the owner of the equipment might park his truck either temporarily, or for the night, and many there slept in the sleeper cabs which were provided in the tractors. That gave him opportunity to guard any load which might be on the truck at the time and for the safety of which he was responsible. At those points he might also get the necessary helpers for loading and unloading, as other trucking companies also used the same lots and such helpers would congregate at those points, or from which they might be located. No consideration was paid by the Greyvan or by the truckmen, except the patronage by the truckmen for gasoline, oil and supplies. There was no requirement that the truckmen use any particular lots, unless he found it advantageous to use them, a list of which he was supplied with. (R., 156, 159, 164, 167, and 169.)

Dispatcher. Witness Prante was the dispatcher who was on call at all hours of the day or night. It was his job to know what loads they had to move throughout the entire 38 states, and to know what equipment, whether company-owned or owner-operated, was available for moving those loads. The closest van got the load. Accordingly, co-operation was required by the drivers in notifying the dispatcher when they had delivered, or were about to deliver, a load so that the load to be moved in that vicinity might be assigned to them. (See R., 98, 130, 145, 146.) The arrangement was not stemming out of control of owner-operated equipment, but was a matter of co-operation whereby the most efficiency might be had out of the equipment and the truckman might be kept engaged all the time. That was what they were in the business for.

Regulations of the Interstate Commerce Commission. Many of the alleged requirements stem from the regulations of the Interstate Commerce Commission including the following:

Insurance. This regulation requires all motor equipment operating under one certificate to be insured in the same insurance carrier. This applies to the liability and property damage insurance and cargo. Cargo may be insured in a separate company since liability companies generally do not write, and are not authorized to write both kinds of insurance. Consequently, in order to carry out the contract, it was necessary for Greyvan to arrange for the liability and property damage insurance in one company and the cargo insurance in another. Under the contract that insurance was chargeable to the truckman and it was so handled by charging the

amount against his account on a monthly basis. No control can stem from that provision of the contract. Further, by so doing it was obtained on a more economical basis. (R., 168.)

Using Equipment for Other Purposes. Also stemming from the regulations of the I. C. C. is the contract provision requiring operation solely in the company's business. This provision prohibits the transportation of any goods except in the business of the carrier whose certificate numbers are displayed on the vehicle. There was no prohibition upon the use of the equipment for other purposes in the event the certificate numbers were removed while so doing. However, there was sufficient business available to keep these tracks engaged at all times. It shows no control or employment.

Likewise a physical examination of the driver is required by the rules of the I. C. C. The trackman was permitted to select his own doctor. (R., 170.) Also, prohibition of the use of alcoholic beverages and prohibition of transporting others than those entitled to be on the truck stem from those regulations.

Markings on Equipment. The point is made (Br., p. 12) that the equipment bore the appellee's name.

The safety regulations of the I. C. C. required the markings on the vehicle. The point might be germane in a tort action but not in this case where rights stem solely from the contract between the parties.

In the following cases where the relationship of independent contractor existed, but the name of the company for whom the operation was being made appeared on

the trucks, the court held that such circumstance "was not of controlling importance."

Texas Co. v. Brice, 26 F. 2d, 164, 165;
Brownligg v. Allvine Dairy Co., 137 Kas., 209, 19 Pac. 2d, 474, (1933);
Riggs v. Haden Co., 127 Tex., 314, 94 S. W. 2d, 152, 154 (Texas, 1936);
Lewis v. Transfer Co., 119 S. W. 2d, 106 (Texas, 1938);
Coviello v. Industrial Commission, 129 O. S., 589, 196 N. E., 661;
State, ex rel. v. Commercial Motor Freight, Inc., 48 N. E. 2d, 898;
Magnolia Pet Co v. Griych, 206 Ark. 352, 176 S. W. 2d, 435;
Halkias v. Wilkoff Co., 144 O. S., 139, 145, 47 N. E. 2d, 199.

Contract Terminable on Notice. The fact that the contract was terminable on notice by either party did not convert the independent contract into a contract of employment for hire.

Texas Co. v. Higgins, 118 F. 2d, 636, 638;
American Oil Co. v. Fly, 135 F. 2d, 491, 493;
Crossett Lumber Co. v. McCain, 205 Ark. 631, 170 S. W., 64, 68.

Furthermore, in answer to appellant's brief, p. 33, the contract could not be terminated while under load. It was a continuing contract, but either party might cancel before a particular transportation had been entered into, the contract expressly providing that truckman should complete delivery; (R., 271) and, after the transportation had begun the company would be under legal liability to compensate the truckman for the service. Under the contract the carriage of each load was a separate

transaction and either the truckman, or appellee, might maintain an action for breach of the contract with respect thereto. See **Fisher Body Co. v. Wade**, 45 Ohio Appeals, 263, 187 N. E., 78.

Exclusive Use of Equipment.

Appellant urges (Br., p. 30) that the truckman is an employee since he must devote his van exclusively to the services of the company in the transportation of goods entrusted to it by shippers. The contention is answered in **Fidelity & Casualty Co. v. Industrial Comm.**, 191 Cal. 404, 216 Pac., 578, (1923), wherein the court said:

> "Respondents * * * argue that the decedent was not pursuing an independent occupation because he was not doing hauling for anyone else, and was not permitted so to do under the provisions of his contract for the term thereof. This is a non sequitur. The question whether or not one is pursuing an independent occupation does not depend upon whether he is serving one person or many persons, but whether in the pursuit of his occupation he is acting on his own behalf or as the servant of another. * * *
>
> "A single large railroad company, for example, might find work enough for a contractor to occupy his whole lifetime, yet leave him to work in perfect independence, accepting the results of his labor without ever interfering with his choice of the mode and the instruments of working. * * *" (Op., p. 581).

A decision by this court, along the same lines, is **Robinson v. B. & O. Rd. Co.**, 237 U. S., 84, an action brought under the Federal Employers Liability Act, where the plaintiff was held to be an independent contractor and the court in so holding said:

"The service provided by the Pullman Company was, it is true, subject to the exigencies of railroad transportation and the Railroad Company had the control essential to the performance of its functions as a common carrier. To this end the employe's of the Pullman Company were bound by the rules and regulations of the railroad company. This authority of the latter was commensurate with its duty and existed only that it might perform its paramount obligation. (Op., p. 93).

In **Chicago, Rock Island & Pacific Ry Co., v. Bond,** 240 U. S., 449, 60 L. Ed., 735, this court determined that one who had contracted to keep a sufficient supply of coal in readiness for use by a railway company and providing the necessary labor therefor being paid on a tonnage basis, was an independent contractor and no recovery for his death could be had under the Federal Employers Liability Act. In reversing the judgment of the trial court, this court said:

"We are unable to concur with the learned court in its conclusion. There was, it's true, and necessarily, a certain direction to be given by the company, or rather, we should say, **information given to Turner.** But the manner of the work was under his control, to be done by him and those employed by him. He was responsible for its faithful performance and incurred the penalty of the instant termination of the contract for nonperformance. This was only a prudent precaution, indeed, necessary in view of the purpose of his contract, which was to make provision for daily supply of coal for the operation of the railroad. **The power given was one of control in a sense, but it was not a detailed control of the actions of Turner or those of his employees.** It was a judgment only over results and a necessary sanction of the obligations which he had incurred. It was not tantamount to the control of an employee

and a remedy against his incompetency or neglect." (Op., p. 456.)

See also, **Crossett Lumber Co. v. McCain**, 205 Ark. 631, 170 S. W. (2), 64, and **Norton v. Day Coal Co.**, 192 Iowa 160, 180 N. W., 905, a compensation case involving the hauling of coal with a truck paid on a load basis.

The situation is much the same as that of a purchaser of goods who buys all of his products from one concern. He may stop buying at any time he so desires. That was the state of facts presented in **Nevius, Inc. v. Rothensis**, 151 F. 2d, 189.

Compliance With Regulations of I. C. C.

Counsel refer to the provision of the contract which provides that the service performed shall be "in accordance with the tariffs, rules and regulations of the company."

Those are requirements imposed by the rules and regulations of the I.C.C. (R., 166). In order for the truckman to accomplish his contract for the transportation of the goods, the truckman must comply with the same rules and regulations, and the same tariff provisions that are imposed and obligatory upon the common carrier. That is part of the contract obligation which the truckman assumed upon signing it. It is the **"what"** provided for in the contract, and is no part of the **"how"** to do the work. Without such compliance the contract would be of no benefit whatsoever to the appellee.

In **Glenn v. Standard Oil Co.**, 148 F. 2d, 51, where such a provision of the contract was involved, the court said:

"With reference to the provision in which the agent agreed to follow all instructions given him in

"regard to the general conduct of the business of the company it may be said that this is not indicative of control of the means and methods which the agent uses to sell the company's products."

In **United States v. Davis**, 154 Fed. 2d, 314, (U. S. Court of Appeals, District of Columbia, 1946), a similar contract provision was involved, findings of fact similar were made by the District Court, and judgment for the taxpayer was affirmed.

Compare **Lehr, Int. v. Brown**, 91 S. W., 693 (Texas 1936).

APPLICATION TO THE INTERSTATE COMMERCE COMMISSION.

Counsel make much ado about nothing over the application of Greyvan for operating rights under the grandfather clause of the Motor Vehicle Act. (R. 380-395). They claim we misrepresented our operations to the commission. (See R., 257). Their sole claim of misrepresentation arises from a single sentence (apparently garbled in transcription). (R., 387).

If counsel were able to point out a misrepresentation of fact, they might have some good ground for their position. No misrepresentation of facts is to be found in the entire record. The application was filed February 10, 1936, came on for hearing, and on April 5, 1939, Examiner Garafalo filed his report reciting the facts as disclosed in the evidence in that case and in this, and recommended disallowance of the application. That was before the decision in the **Dixie-Ohio Express Company** case, 17 M. C. C. 735 (in 1939) and before the decisions of this court hereinafter referred to and the examiners

of the Interstate Commerce Commission to which such matters were being referred, had no decided cases for guidance.

Upon application of Greyvan, a rehearing was granted and held October 25, 1939, the order of Examiner Garafalo was vacated and set aside and, on rehearing, the permit was granted on evidence of the same character as was submitted in this case, with respect to operations by means of independent contractors. (R., 389; reported 32 M. C. C. 719, where the evidence is reviewed and the granting of the application was ordered.) Answering the contention that Greyvan was not entitled to the permit under the grandfather clause because the equipment was operated by the truckmen, Commissioners Mahaffie, Rodgers and Alldredge by decision dated March 17, 1942, granted applicant its permit saying, with respect to owner-operated vehicles:

> "Although such vehicles were used in applicant's service exclusively, it does not follow that applicant owned and operated such equipment. Applicant, itself, does not so contend. Rather does the arrangement suggest a financial transaction having no immediate connection with the use of such equipment." (R., 393.)

Appellant's counsel quote from the order to the effect that the commission found that the equipment "was operated under the full management and control of the company." Turning to the Motor Carrier Act of Congress, Chap. 8, Title 49, U. S. Code, Sec. 303, originally defined "common carrier by motor vehicle" as "any person who or which undertakes, whether **directly** or by **lease** or **any other arrangement**, to transport passengers and property * * *." (R., 257.)

The Motor Carrier Act was amended September 18, 1940, added certain provisions but did not change either the purpose or intent of the act. Under the title "Definitions," Section 303(14) provided that the term "common carrier by motor vehicle" meant "any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property, or any class or classes thereof for compensation, whether over regular or irregular routes * * *."

It was provided in Section 303(19):

> "The 'services' and 'transportation' to which this chapter applies include all vehicles operated **by, for, or in the interest of** any motor carrier **irrespective of ownership or of contract**, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers, and used in the transportation of passengers or property in interstate or foreign commerce, or in the performance of any service in connection therewith."

As relating to the definition of "services" and "transportation" attention may be called to Section 308 of the act for a limitation on the powers of the commission in the following singular terms and provisions:

> "That no terms, conditions or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the route, between the terminal or within the territory specified in the certificate, as the developments of the business and the demands of the public shall require."

The Motor Carrier Act expressly recognizes that ownership of a vehicle, and the existence of an employer-employee relationship between the carrier and operator

of equipment is not essential and whether or not the operator of a vehicle is within the Social Security Act, depends upon the terms of the contract existing between him and his actual employer—the one who pays him his compensation for services performed under a contract of hire." **Williams v. United States**, 136 F. 2d, 129.

Citation of the **Dixie-Ohio case** (Br., p. 35) shows on its face that Government counsel have misinterpreted the **character of control** specified in the Motor Carrier Act.

In the **Dixie-Ohio** case, where owner-operators were used on the trucks engaged by the common carrier, the commission granted the certificate. It is the first and leading case on the subject. Commissioner Eastman, Federal Co-ordinator of Transportation when the act was drafted, and who is accredited with having formed the Motor Carrier Act (U. S. v. American Trucking Assoc., 310 U. S., 534, 538), said;

> "Applying the principles so indicated to the present case, the evidence shows that the traffic transported in the vehicles of the owner-operators moved on bills of lading issued by applicant, **which assumed full responsibility as a common carrier therefor.** The consignors of the shipments dealt only with applicant. * * * The conclusion follows, therefore, that as to its operations in which such vehicles were employed, applicant was a common carrier by motor vehicle as defined in Section 203(a)(14) of the act."

As shown by the foregoing quotations from the Motor Carrier Act there is no provision therein which attempts any regulation as to the character of relationship existing between the carriers and those who may be engaged to perform the transportation of goods entrusted to the

carrier. This court has held that the Interstate Commerce Commission has no authority to disregard the provisions of the act and impose restrictions of its own inconsistent with the act. **United States v. Carolina Freight Carriers Corp.**, 315 U. S., 475.

Also, this court in the following cases, has sustained the legality of operation under the owner-operator system.

In **United States v. Rosenbloom Truck Lines**, 315 U. S., 50, 86 L. Ed., 671 (1942), this court recognized the legality of the relation between the carrier and an independent contractor, and cites with approval the decisions of the Interstate Commerce Commission arising out of such contracts, with owner-drivers. In that case the court held that the Interstate Commerce Commission rightly denied owner-operator's permits under the grandfather clause of the Motor Carrier Act, since they, by drivers in their employ, had "hauled only for common carriers by motor vehicle * * * for which they were paid a lump sum on dock to dock movements." It appeared there that the owner-operator's equipment was secured on oral contracts to handle overflow freight, "solicited by the common carrier, accumulated at its terminal, loaded and unloaded by its employees, and moved from consignor to consignee on that carrier's way bills." (Op., p. 52.)

In **Thompson, etc., v. United States**, 321 U. S., 19 (reversing 34 M. M. C. (F.), 299), decided January 7, 1944, this court held the carrier entitled to the certificate, saying:

> "Thus the railroad clearly is undertaking to transport freight by an 'other arrangement' as those words are used in the original statutory definition of 'common carrier by motor vehicle.' Cf. Chairman

Eastman's concurring opinion in Re Missouri P. R. Co., 22 M.C.C. (F.), 321, 333. Even more clearly, under the amended definition, the railroad is holding itself out to the general public to engage in the transportation of freight by motor vehicle as part of its coordinated rail-motor freight service. In short, it is a common carrier by motor vehicle within the meaning of the act." (Op., p. 25.)

The point was also sustained by the Circuit Court of Appeals of the Sixth Circuit in **United States v. Mutual Trucking Company**, 141 F. 2d, 655, where that court said in the opinion of Allen, J.:

"The Interstate Commerce Commission recognizes operation of trucking companies through independent contract, and in its auditing department reports this class of business under the heading 'Purchased Transportation.' Since the Motor Carrier Act, now Part II of the Interstate Commerce Act, Title 49, U. S. C., Section 301 et seq., 49 U. S. C. A. Section 301 et seq., covers 'all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract, express or implied,' Title 49, U. S. C., Section 303 (19), 49 U. S. C. A., Section 303 (19), the present operation, so far from being condemned, is valid under federal law." (Op., p. 658.)

The lower court in this case so held. (R., 257.)

The Interstate Commerce Commission recognizes the validity of operations on both the independent contractor basis and the lease system in granting certificates of convenience and necessity under the grandfather clause to various motor carriers.

The extent of the Motor Carrier Act and the regulations adopted thereunder by the Interstate Commerce

Commission are directed to the accomplishment of two objects:

First, the regulation of the relationship between the shipper and/or consignee, and the carrier, so that the carrier's contract liability to either the consignor or consignee may not be evaded. **Thompson v. United States,** 321 U. S., 19.

Second, the regulation of the carrier's relationship to the general public whereby the carrier's tort responsibility to the general public cannot be evaded, as instanced in **Hedges v. Johnson,** 52 F. Supp., 488.

Counsel for appellants cite the very recent decision in the **Allied Van Lines** case, 46 M. C. C., 159, in which the Interstate Commerce Commission in refusing the Allied Van Lines a permit under the grandfather clause, quote from the Greyvan decision, 32 M. C. C., 719. There, the sole issue was whether, on June 1, 1935, the applicant was in bona fide operation as a common carrier. In deciding that it was not, the commission acted on evidence showing that the National Association of Warehouse men had, prior to June, 1935, formed a voluntary association, loosely knit, in an effort to cement and control the movement of household goods from the warehouse of one member to the warehouses of others in a distant city. The National Association, the applicant, neither owned, nor operated, any vehicles prior to the effective date of the Motor Carrier Act, engaged no drivers and was a non-profit organization controlled solely by its members who did the transportation service. We submit that the quotation from this case is wholly in line with the facts and the law.

Counsel also cite the case of **Acme Fast Freight, Inc., v. United States**, 30 F. Supp., 968, affirmed per curiam, 309 U. S., 638. In that case the **Acme** was merely a freight forwarder, but the right to use, under the Motor Carrier Act, independent contractors was recognized.

As the Circuit Court of Appeals in this case found, there was no inconsistency whatsoever in our factual representation to the commission from that in the instant case and the method of operation is authorized by the Motor Carrier Act. The control referred to both in the Motor Carrier Act and in the decisions is that above referred to, is directed toward assurance that the shipper and the carrier will be fairly and justly treated and not discriminated against; and that the general public shall not suffer from the carrier's tort responsibility. When that control is accomplished, the act is satisfied and certainly there cannot be, as suggested by appellant's counsel, any violation of other acts of Congress when this operation is specifically permitted. (See Br., p. 34.)

Again, if the method of operation by means of independent contractors, a method which has again and again been approved by the Interstate Commerce Commission in granting certificates of compliance under the grandfather's clause, is not in accordance with the Motor Carrier Act and the regulations of the Interstate Commerce Commission, such matter is for the consideration of that body. It is certainly not within the taxing arm of the appellant to force a renegotiation of Greyvan's contracts with its truckmen so as to create a system whereby the Government may levy a tax under the Social Security Acts.

ALLEGED AGREEMENT WITH RESPECT TO THE ENFORCED RETURNS.

Counsel for the appellant claim that Treasurer Shearer agreed to the method of arriving at the enforced returns. Without questioning whether such an agreement would be beyond his authority, no such agreement was made. Such an agreement was expressly denied by Shearer (R., 141) and the appellant put on no witness to prove the contrary. The effect of the testimony was, that if the plaintiff was liable for the tax, the amount was not controverted. The court sustained our objection to the question as to whether there was "controversy about the amount of wages." (R., 141.) Furthermore, we introduced no evidence as to the correctness or incorrectness of the computations but content ourselves on the proposition that there was no wage paid, and there is no tax payable because the truckmen were not employees within the meaning of the Social Security Act. Why counsel insist upon it we cannot understand, because, if there is a liability for the tax such liability exists irrespective of any agreement by Treasurer Shearer.

The District Court found that the amount assessed was "an arbitrary sum, arbitrarily arrived at" (R., 226) and the Circuit Court of Appeals agreed. (R., 258.)

DISCUSSION OF CASES CITED BY APPELLANT.

It is difficult and would unduly lengthen this brief to discuss at length the many cases cited by counsel for appellant. Many of them have no application whatsoever to the facts found in the case at bar. We shall not attempt to distinguish them separately except as we have heretofore handled them, but shall classify them as follows:

Tort cases. As we have heretofore pointed out, tort cases are not in point. The Social Security Acts do not define the word "employment" but leave it to be defined as in common parlance. As has been said, it is not a "work of art". Each case must stand upon its own facts. Discussion on the point will be found in most of the cases cited in our brief.

The tort cases cited by counsel and not in point are as follows:

Singer Mfg. Co. v. Rahn, 132 U. S., 518;
Railroad Co. v. Hanning, 15 Wall., 649;
Casement v. Brown, 148 U. S., 615;
Gulf Refining Co. v. Brown, 93 F. 2d, 870 (C. C. A. 4);
Western Express Co. v. Smeltzer, 88 F. 2d, 94 (C. C. A. 6), distinguished by that court in **United States v. Mutual Trucking Co.**, 141 F. 2d, 655.

Decisions Under Other Statutes.

The following cases involved considerations of the National Labor Relations Act or the Fair Labor Standards Act and are not in point because those acts adopt a very inclusive definition of employment entirely different

from the common law and from that used in the Social Security Acts.

See:

United States v. Davis, 154 F. 2d, 314;
Glenn v. Beard, 141 F. 2d, 371, writ of certiorari denied;
National Labor Relations Board v. Hearst Publications, 322 U. S., 111;
Williams v. Terminal Co., 315 U. S., 386.

Decisions Under State Unemployment Acts.

Decision under many of the state unemployment acts would be inapplicable because of the inclusion therein of the so-called "Three Test Provisions". Of such character is **Electrolux Corp. v. Board of Review**, 129 N. J. L., 154, 28 Atl. (2d), 219.

Decisions Under Federal Unemployment Insurance Act.

Cases such as **Grace v. Magruder**, 148 F. 2d, 679 (App. D. C.), and **United States v. The Vogue, Inc.**, 145 F. 2d, 609 (C. C. A. 4), are illustrative of cases wherein nothing save menial services were performed and no equipment of value is furnished, no responsibility assumed, where the service is performed under the immediate supervision of the taxpayer, or where payment for the service was made direct by the taxpayer. In such cases there is a vast distinction between those and the operation involved in the instant case.

In various other cases cited by the appellant, the taxpayer was held to sustain an independent contractor relationship and recovery was granted. See:

Ridge Country Club v. United States, 135 F. 2d, 718 (C. C. A. 7);
Williams v. United States, 126 F. 2d, 129 (C. C. A. 7);
Texas Co. v. Higgins, 118 F. 2d, 636 (C. C. A. 2);
United States v. Aberdeen Aerie, 148 F. 2d, 655;
Nevius v. Rothensis, 58 F. Supp., 460, affirmed 151 F. 2d, 189.

CONCLUSION.

We respectfully submit that the relationship found by the District Court and affirmed by the Circuit Court of Appeals was fully supported by the evidence and established that of independent contractor and not employer-employee; and there is no application whatsoever of the Federal Unemployment Tax or Federal Contribution Tax Acts. All other questions discussed are mainly incidents to the main proposition and need not here be again reviewed.

We respectfully submit that the law applicable to this case may be concretely stated as follows:

Indivisible compensation paid under a contract, which calls for both personal service and the use of equipment furnished by the party rendering such service, is not "wages" within the meaning of that term as defined in the Social Security Acts of Congress.

The owner of motor equipment who, under contract, furnishes his own motor truck (together with certain moving equipment), including its fueling and maintenance, to an interstate carrier engaged in moving commodities, principally household goods, from point to point within thirty-eight states and the District of Columbia and hauls with such motor equipment freight

solicited by such interstate carrier from point to point as directed, for which he is compensated by a percentage equivalent to 50% or more of the total revenue received is an independent contractor and, as such, is not within the Social Security Acts of Congress, which levy assessments solely upon **wages** paid with respect to **employment.**

WILBUR E. BENOY,
ARTHUR M. SEBASTIAN,
50 W. Broad St., Columbus 15, Ohio,
ROBERT DRISCOLL,
GEORGE T. CHRISTIE,
2737 Board of Trade Bldg., Chicago, Ill.,
Attorneys for Plaintiff.

APPENDIX A.

DISCUSSION OF THE STATE OF THE RECORD.

At the pre-trial conference plaintiff was ordered to provide for interviews with the owner-drivers and other of plaintiff's witnesses. (R., 22, 23.) Such arrangement was made. Forms and contracts introduced in evidence herein, including the Manual for Truckmen (R., 276), were furnished counsel for the appellant but the appellant failed to approve the stipulation of facts covering the entire case as proposed by the plaintiff. (R., 21, 132.) A limited stipulation of facts was agreed upon. (R., 22 to 93.) This stipulation in the main was limited to the arbitrary method of preparation of the enforced returns and other facts which appeared upon the record of the appellant. (R., 22-27.)

(R., 29-93.) Exhibits A to I, inclusive (being the enforced returns none of which were signed by appellee), forming part of the stipulation, contain forms which are rather difficult to understand without seeing their original makeup. In each of these exhibits so attached to the agreed statement of fact the so-called "Employees Account No." appearing on the left-hand side of the form and which refers to his social security number is returned as "Unknown". (E. G., See Exhibit G., R., 45.) The name inserted under the heading "Name of Employee" is the name of the truckman (independent contractor) and under the column "Correct Amount of Wages" is inserted a fractional part of the contract payments made to the truckman pursuant to the contract with him. This arbitrary method of the collector in ar-

riving at said amount is shown in the stipulation (R., 25-6) and also appears in the findings of facts. (R., 322.) The method of arriving at the "wage" alleged to have been paid, was by taking the union wage scale on the basis of what a man, if in employment, should have earned and assessing the tax on the amount thus arbitrarily obtained. (R., 25.)

The truckmen were obliged from time to time, in the [redacted] where they made deliveries of goods or secured loadings, to employ labor on a temporary basis for a short time to assist them in moving the household goods into or out of the van and properly packing them for transportation. The collector, as to such alleged employees, assumed that the helpers' wages would be 41.67 per cent of the amount determined and set up by him as the truckmen's "wages". (R., 26.)

As will be noted we have a duplication of exhibits by lettering, the first set (A to I) being attached to the agreed statement, and being the enforced returns (R., 28-93); and the second set being A to K, introduced at the trial.

As to the facts not stipulated, plaintiff produced witnesses to show the method and manner of conducting the transportation business (R., 95-207), with particular reference to the independent contractors of whom there were 50 to 60. (R., 143.)

The following exhibits were offered by the plaintiff and received in evidence.

(R., 121, 131, 265.) Exhibit A, which was the Truckman's Agreement.

(R., 122, 275.) Exhibit B is a copy of "Instructions to Truckman" which indicates to him where he will pick

up a load and to where it will be delivered, together with any particular information which may be necessary for him to have in order to accomplish the object of the contract, delivery.

(R., 122, 275.) Exhibit C, which is a sample of the shipping order, which serves the purpose of a bill of lading. The truckman receipts for the goods unless the plaintiff happens to have at that point a branch office which does the receipting.

(R., 123, 124, 275.) Exhibits D and F, which illustrates the method and manner of making payments to the truckman. It is an "Accounts Payable Voucher". The voucher shows the entire amount coming to the truckman under the contract for the current month, less previous advancements during the month.

(R., 123, 275.) Exhibit G, which is exemplary of the monthly statements made up and delivered to the truckman, which shows the net amount due and payable to the truckman, Parsley, for the transportation accomplished during the monthly period. The statement shows the amounts payable to the truckman on the shipments involved. It shows payment to him of 50 to 70% of the tariff charges collectible by appellee and a total amount payable for the month of September, 1941, of $705.41. In addition, for the same month, he was paid a bonus of $86.16.

(R., 126, 274.) Exhibit H shows the method and manner of making the bonus payments to the truckmans. This payment was to truckman Parsley for $86.16 for September, 1941.

(R., 144; 275, 276.) Exhibits J and K show summaries of amounts paid for transportation service to

rious truckmen, Parsley and Bossert, over various pe-
ods. (R., 126.) Bossert for May, 1942, was paid gross
rnings of $1729.38, and Parsley for May, 1942, was
id gross earnings of $1716.44.

The appellant's exhibits numbered 1 to 15 inclusive
e described as follows:

Exhibit 1 (R., 112, 113, 182, 276, 368) being the
anual for Truckmen which was not enforced and was
sregarded. Attention is directed to pages 341 and
is giving names and location of branch offices, or park-
g lots, where accommodations could be had. These
commodations were ordinarily donated by the owner
f the parking lot with an eye to the possible sales of gas
nd oil (R., 165) and provided accommodations where
he owner-operator might sleep in his truck and guard
is load (R., 104), for which he had assumed responsi-
lity. Other companies use the same lots (R., 169) men
anted for loading and unloading congregate there and
re available to all the companies (R., 165).

Exhibit 3 (R., 199, 368) being page from Chicago
elephone directory showing Greyvan's ad and a pic-
ure of one of the vans.

Exhibit 4 (R., 174, 368) being the union contracts in
wo parts:

First (R., 368) which is a separate contract between
he van drivers, chauffeurs, piano, furniture movers,
ackers and helpers, Local Union 711, etc., covering the
dependent contractors or truckmen.

Second (R., 374) being the supplemental contract of
e same union with respect to employees of the com-
ny driving company-owned trucks.

Exhibit 5 (R., 200, 274) being a photograph of the tractor and front portion of the trailer of a Greyvan outfit.

Exhibit 6 (R., 200, 374) being another photograph of the same van.

Exhibit 7 (R., 194, 375) being a reproduction of a form identified by witness Sahlgaard as one of the forms he used respecting owner-operated trucks, soon discontinued by reason of objection of the owner-operators who had the bill to pay. (R., 193, 195, 196, 197.)

Exhibit 8 (R., 194, 379) being physical inspection report identified by the same witness and suffering same fate.

Exhibits 9 to 14, received under objection (R., 200 to 204, 379 to 395) being a portion of the proceedings before the Interstate Commerce Commission under application for grandfather's rights.

Exhibit 15 (R., 204, 205, 395) and being form of application for identification plates to Interstate Commerce Commission submitted pursuant to a rule by the Division of Motor Carriers of the I.C.C.

APPENDIX B.

LIST OF APPLICABLE DECIDED CASES.

Transportation Cases:

The following cases involving transportation, most of which are by common carriers, are in support of the plaintiff.

United States v. Rosenbloom Truck Lines, 315 U. S., 50, 86 Law Ed., 671 (1942);
Thompson v. United States, 321 U. S., 19, 88 Law Ed., 513;
United States v. Mutual Trucking Co., 141 F. 2d, 655 (C. C. A. 6, 1944), affirming 51 F. Supp., 114;
Midwest Haulers, Inc., v. Brady, 128 F. 2d, 496 (C. C. A. 6, 1942);
Magruder v. Yellow Cab Co., 141 F. 2d, 324 (decided 1944, C. C. A. 4), affirming 49 F. Supp., 605;
United States v. Davis, 154 F. 2d, 314 (U. S. Ct. of Appeals, Dist. Columbia, 1946);
Commercial Motor Freight, Inc., v. Ebright, 143 O. S. 127; 54 N. E. (2d), 297, 151 A. L. R., 1321.

Compare:
Columbia River Packers' Assoc. v. Hinton, 315 U. S., 143, 86 L. Ed., 750.

Decisions by Circuit Court of Appeals Involving Unemployment, Social Security and Similar Acts:

United States v. Mutual Trucking Co., 141 F. 2d, 655 (C. C. A. 6, 1944), affirming 51 F. Supp., 114;
United States v. Aberdeen-Aerie, 148 F. 2d, 655;

Nevius v. Rothensis, 58 F. Supp., 460, affirmed 151 F. 2d, 189;
United States v. Davis, 154 F. 2d, 314 (U. S. Ct. of Appeals, Dist. Columbia, 1946);
McGowan v. Lazeroff, 148 F. 2d, 512 (C. C. A. 2, 1945), affirming D. C. of N. Y.;
Glenn v. Standard Oil Co., 148 F. 2d, 51 (C. C. A. 6, 1945), affirming 52 F. Supp., 755;
Spillson v. Smith, 147 F. 2d, 727 (C. C. A. 7, 1945), affirming D. C. of N. Y.;
Glenn v. Beard, 141 F. 2d, 376 (C. C. A. 6, 1944), cert. denied 323 U. S., 724;
Magruder v. Yellow Cab Co., 141 F. 2d, 324 (C. C. A. 4, 1944), affirming 49 F. Supp., 605;
Ridge Country Club v. United States, 135 F. 2d, 718 (C. C. A. 7, 1943);
Fahs, Coll., v. Orange State Oil Co., 138 F. 2d, 743 (C. C. A. 5, 1943), affirming 52 F. Supp., 509 (1942);
American Oil Co. v. Fly, Coll., 135 F. 2d, 491 (C. C. A. 5, 1943, reversing D. C. of Miss.);
Radio City Music Hall Corp. v. United States, 135 F. 2d, 715 (C. C. A. 2, 1943), affirming 50 F. Supp., 328, on summary judgment;
Anglim, Coll., v. Empire Star Mines Co., Ltd., 129 F. 2d, 914 (C. C. A. 9, 1942);
Midwest Haulers, Inc., v. Brady, 128 F. 2d, 496 (C. C. A. 6, 1942);
Williams v. United States, 126 F. 2d, 129 (C. C. A. 7, 1942), reversing 38 F. Supp., 536 (certiorari denied 317 U. S., 655);
Indian Refining Company, et al. v. Dallman, Coll., 119 F. 2d, 417 (C. C. A. 7, 1941), affirming 31 F. Supp., 455;
Government Personnel Automobile Assoc. v. United States, 124 F. 2d, 99 (C. C. A. 5, 1941);
Texas Company v. Higgins, 118 F. 2d, 836 (C. C. A. 2, 1941), affirming 32 F. Supp., 428.

Decisions by District Courts Involving Unemployment, Social Security and Similar Acts:

Nebraska National Hotel Co. v. O'Malley, 63 F. Supp., 26 (D. C. Neb., 1945);
Emard v. Squire, Coll., 58 F. Supp., 281 (W. D. of Wash., 1945), citing Columbia River Co. v. Hinton, 315 U. S., 143;
Gulf Oil Corp. v. U. S. A., 57 F. Supp., 376 (W. D. of Pa., 1944);
Hirsch v. Rothensies, 56 F. Supp., 92 (E. D. of Pa., 1944);
Brown & Sons Lumber Co. v. U. S., 55 F. Supp., 103 (W. D. of Ky., 1944);
Los Angeles Athletic Club v. U. S., 54 F. Supp., 702 (S. D. of Calif., 1944), appeal dismissed, 144 F. 2d, 352;
Standard Oil Company v. Glenn, Coll., 52 F. Supp., 755 (W. D. Ky., 1943), affirmed 148 F. 2d, 51;
The Spirella Company v. McGowan, Coll., 52 F. Supp., 302 (W. D. N. Y., 1943);
Yellow Cab Company v. Magruder, 49 F. Supp., 605 (D. C. of Maryland, 1943), affirmed 141 F. 2d, 342;
Biltgen v. Reynolds, Coll., 58 F. Supp., 909 (D. C. of Minn., 1943);
Burruss v. Early, Coll., 44 F. Supp., 21 (W. D. of Va., 1943);
Orange State Oil Co. v. Fahs (D. C. Fla., 1942), 52 F. Supp., 509, affirmed (C. C. A. 5), 138 F. 2d, 743;
In the Matter of the Ten Eyck Company, 41 Supp., 375 (N. D. N. Y., 1941);
Kentucky Cottage Industries, Inc., v. Glenn, Coll., 39 F. Supp., 642 (W. D. of Ky., 1941), appeal dismissed.

Decisions Under State Unemployment Acts:

We are supported by the following cases arising under various state unemployment compensation acts:

Bonifas-Gorman Lumber Co. v. Michigan Unemployment Compensation Commission, 313 Mich., 563, 213 W., 2d, 188 (1946).

Ozark Minerals Co. v. Murphy, Director, 51 N. E. (2d), 197, 348 Ill., 94;

Schatz, Pollack Wollen Co., Inc., v. Murphy, 51 N. E. (2d), 145, 348 Ill., 218;

Crossett Lumber Co. v. McCain, Comm., 170 S. W. (2d), 64 (Sup. Ct. of Ark., 1943), and 174 S. W. (2d), 174 (1943);

Southern Kraft Corp. v. McCain, 171 S. W. (2d), 947 (Sup. Ct. of Ark., 1943);

Texas Co. v. Wheeless, 185 Miss., 799, 187 So., 880;

Rochester Dairy Co. v. Christgau, 14 N. W. (2d), 780 (Sup. Ct. Minn., 1944).

We have included in the foregoing list no cases in which Congress or the General Assembly of any state has, by definition, defined "employment" or "employee" other than it was defined at common law; as illustrated by the decision in Walling v. American Needlecrafts, 139 F. 2d, 60 (6 C. C. A., 1943) and National Labor Relations Board v. Hearst Publications, 322 U. S., 111. And, as to state unemployment compensation laws, where the "three tests" provisions were adopted, as found in the cases cited in the Hearst case, pages 121, 122.